

**LEGAL ASPECTS OF EDUCATIONAL ADMINISTRATION: A
PANACEA FOR PREVENTING LITIGATIONS AGAINST TEACHERS
AND ADMINISTRATORS IN 21ST CENTURY SCHOOLS IN NIGERIA**

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Abstract

This paper examined the legal aspects of educational administration and offers it as a remedy for litigations against teachers and administrators in 21st century secondary schools in Nigeria. The researcher introduced the topic by emphasizing the usefulness of education in acquiring the skills needed for the economic advancement of the nation. It explains that litigation could derail the goals and objectives of the secondary institutions if the teachers have no good knowledge of education law. The paper therefore, examined education law, the need for education law courses in undergraduate programmes in Faculty of Education, and the role of education law in equipping teachers particularly against litigations. The paper concluded that it was very important for institutions training teachers to include education law courses from year one through final year, so that teacher trainees and administrators are sufficiently equipped for their job. It recommended among others that: Colleges of education and Faculties of education in Universities should include courses on legal aspects of educational administration from year one through final year. Finally that, parents should pay more attention to raising their wards in a more balanced way to reduce disciplinary issues that lead to litigations in schools.

Keywords: Legal, Administration, Education law, Panacea, Litigation and Discipline.

Introduction

Education is a veritable tool for building the society in every nation. Nigeria as a developing nation needs appropriately skilled, well-groomed and disciplined workforce to drive her economy in order to be at par with the pace of economic development the world over. Formal education can be described as the form of education acquired in organized institution generally referred to as schools. Thus, schools are formal and organized settings put in place for the dissemination of knowledge and skills and are also for transmitting the moral goodness and discipline needed for the development of a strong national economy. This must have informed the decisions of numerous Nigerians who before the independence in 1960 had to travel far to the western countries just to acquire secondary education. Ejiogu (2009: 111), also noted that “before the 1859 Nigerians who needed to acquire post - primary education, had to travel outside the country for that purpose.” The nation began to establish the secondary level of education, as explained by Ejiogu (2009), in 1859 when the first secondary school in Nigeria, the CMS Grammar School Lagos, was founded by Rev. T.B. Macaulay. The secondary level of education receives the nation’s teenage population in their very vibrant and active age. Catering for the needs of students from different homes with different upbringing and social backgrounds is a herculean task. Teenagers are often very zealous and steaming with energy. Little wonder they need adequate guidance to redirect their youthful zeal to avoid imbibing negative behaviours which can be avoided when proper guidance is given. Scult in Ajibola and Ali (2014) explained that, children are dynamic, effervescent and can be heedless. They need checks to prevent excesses, restrictions to keep them within the speed limit of the school allowance. Therefore, schools are places that have been designated to pass knowledge and skills to students especially those of the secondary level of education. For this reason Muthoni (2013), said that learning cannot take place without adequate discipline being maintained in the secondary schools. This is indeed true because without discipline teaching and learning is not possible. Knowledge can only be imparting to students who understand the place of discipline in their life and in the learning process.

Some individuals see discipline as a very difficult and unpleasant aspect of the teaching process. Secondary School teachers are faced with the problem of having to educate, socialize, empower and certify students but these cannot be achieved without the help of a positive learning atmosphere or environment. This is where the legal aspects of educational administration come into play for both the teaching and administrative staff. When individuals

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are exposed to courses in the legal aspects of education in undergraduate programmes in colleges of education and faculties of education in universities it will prepare them to be able to handle school matters professionally when they are confronted with legal matters on their jobs.

Hence, the knowledge of the legal aspects of education is of great necessity to guide the school administrators in their administrative work with both staff and students at the secondary school level. Such a step will lead to the production of skilled, well groom and disciplined workforce for the nation's growing economy. Introducing into the curriculum of undergraduate programmes from 100 level to 400 level, courses in the legal aspects will expose would-be administrators and teachers undergoing training in colleges of education or faculties of education in universities; to knowledge of education law to prepare them to avoid running into issues of litigations in the secondary schools they may work and earn a living later in life.

School Administration

Dale in Obasi and Oluwuo (2008) explained that, administration is that process which allows an administrator organizes the resources available to him that is human and material, for the achievement of set objectives. Drawing from Fayol in Obasi and Oluwuo (2008), buttressed that administration as the ability to plan, organize, command, coordinate and control activities: they went on to explain that it is the process of building human and material resources needed for the successful attainment of the goals of an enterprise. In the secondary school the principal as the administrator, directs, and coordinates subordinates, set objectives, evaluates the performances of staff and students, ensures that there is a conducive atmosphere for teaching and learning, assures that peace and stability is in the institution.

Commenting Okunamiri, Ibiam and Okunamiri in Babalola and Ayeni (2009) explained further that, educational administration means the arrangement of the human beings such as the teachers and non-teachers, and material example of which include school plant, equipment, funds, etc and programmes available for education and carefully using them systematically for the attainment of educational objectives. From the foregoing school administration has to do with the suitable handling of the human and material resources of the school in order to achieve the goals and objectives of the school for the advancement of the society or nation. Thus, administration is absolutely necessary for the effective running of schools.

School Discipline

In the words of Echendu (2018:3), “School rules and regulations are necessary for every school in order to guide and checkmate the activities of the students for the achievement of the school aims and objectives.” It is important that these rules and regulations be enforced and students defaulting be made to face disciplinary actions. Aiyepoku (2006) in explaining what discipline offers to education said, the goals of discipline in a school situation is to facilitate the achievement of the set aims and objectives of the institution. Without discipline, it is hard to conceive of any effective or desirable teaching and learning. Also, where there is no effective or desirable learning, a school would have failed in the realization of its stated goals and objectives. Egwunyenga in Ajibola and Ali (2014), described discipline as the training that enables an individual to develop an orderly conduct and self-control and a sense of self-direction. This means that with the doctrine of *in-loco parentis* schools in the place of parents give students training that helps them develop orderly conduct and self-control therefore acquiring a sense of self-direction. Oxford Advanced Learners Dictionary (2000) sees discipline as the practice of training people to obey rules and orders and then punishing them if they do not. Muthoni (2013), adds that discipline is also seen as the controlled behavior that results when those trained to obey rules and orders do the right thing. Thus it can be safely said that indiscipline is lack of control in the behavior of individual or a group of people who chose to act contrary to the guiding rules and regulations laid for them. Griffins in Muthoni (2013), explained that there are two types of discipline these are self-discipline and imposed discipline. Griffins explained that Self-discipline means internal discipline and imposed discipline means external discipline. Self-discipline involves self-control and self-restraint and imposed discipline is prevailed upon a person by other individuals.

Therefore, school discipline is the training given based on school rules and regulations for purpose of guiding the students in the course of actions and inactions within the school premises. Students who abide by the rules and regulations of the school are termed to be disciplined, and should have little or no problems going through their secondary education. This is where parents; understanding the doctrine of *in-loco parentis* should do their parts and allow the teachers and school to play their parts in molding the students in their care. Parents are considered stakeholders in the schools and if they do not play their part well in their homes to laying a good foundation of discipline their wards

will have problems in school. Parents should reinforce the ability to take instructions and accept corrections both at home and in school. This will reflect in the school and the society. Ezekiel- Hart (2019) in explaining the education system and its problems had this to say that having been a student of Durkheim she agrees that education does not spring up on its own; societies get the education system they deserve. Heaping Blames for the ills of society is like blaming a mirror because you do not like your reflection. The first thing to do in improving education is to recognise that the matter plaguing education is rooted in the way society is organised which is merely garbage in garbage out. In the same vein how, families' raise their children affect schools and result in issues of indiscipline in the schools and the society. This goes to have much impact in the society their wards live in. It is very important that parents give more attention to raising their wards in the most appropriate ways in order to reduce the issue of discipline in schools and the number of litigations on teachers and the school authority. Incessant litigations are distractions to school activities and the achievement of goals and objectives of the schools.

So, all hands must be on deck to ensure there is discipline in schools and in the society. Discipline is a very vital ingredient in the education industry and to achieve higher academic performance in secondary schools. Having discipline in schools could reduce the cases of litigations against teachers and school administrators. To achieve this, teachers and administrators must know about legal aspects of educational administration and appropriate behavior in the workplace.

THE 21ST CENTURY SECONDARY SCHOOLS AND TEACHERS

The 21st century secondary schools is very much concern with the future and what it holds for their students. They are aware of the ever-changing trends in technology and are in tune of what the future may bring to education (Rashidah, 2017). Education is dynamic and a good 21st century school and teacher should follow the trend of the dynamics. Hence, the school and the teachers makes effort to know the career opportunities that will be in the years ahead for their students to harness, and are always thinking and planning to ensure all students are at the same pace and none is left behind.

21st Century secondary schools and their teachers have great advantage because of the powerful learning tools and skills at their disposal which were not available to their predecessors. Such learning tools and skills as technological appliances: computers systems, laptops, android phones, smart

board and collaborative skill and adaptive skill (Rashidah, 2017). These give great opportunity for students to acquire more knowledge within a short time. Hence teachers of the 21st century schools now become facilitators of learning whose major job is guiding and preparing students for their future. The 21st century educators uses modern day teaching strategies and ensure that the focus in education is to prepare the present-day students for their future lives and world of work which definitely will be different from theirs(Rashidah, 2017).

As the 21st century secondary schools and teachers acquire the skills and competences that will enable them to educate the 21st century students they must of a necessity have a good knowledge of education law in order to avoid litigation which is very much associated with the 21st century societal life. In order to discharge their statutory duties effectively, devoid of litigations and enjoy their profession like every other citizen of the nation they need understand very well the laws of education relating to the duty of care in school administration. There is much a teacher have to do in school in terms of teaching and molding the life of students entrusted to his care, hence they should be acquainted with education law in order to save time, give more attention to the teaching and learning delivery this made easy when armed with the legal aspects that helps them avoid issues that can lead to litigations with students/ parents and even the school authorities.

Legal Aspects of School Administration

The legal aspect of school administration refers to education laws which have much to do with the appropriate laws governing the administration of schools. Education law according to kalagbor (2015:4), “is the portion of the law in a state / country that specifically governs educational bodies such as public and private institution of learning”. In the same vein the legal aspects of school administration can be explained to mean the legal rights of a Nigerian child as pen down in various municipal laws and international instruments, these laws which are based on certain fundamental principles relates to the promotion of child survival; prevention of harm to children and young people, promotion and sustenance of Child dignity and for the enhancement of Child development. (Nwabueze & Ihuoma, 2018)

It is important to understand the dynamics of the society in connection with procreation and sustenance of human existence. In the paradigm of human existence child and young people survival is paramount. This is because

without the proper management of the various classes of people in a society the society may go into extinction. Hence, Gladday in Nwabueze and Ihuoma (2018) explained that, these principles identify the basic concept that the Child is the foundation of the society and he or she is the reason for its continuity. Therefore, the survival and the continuity of the human society depend upon the protection; prevention, nurture and development of the child.

It is however necessary that educational activities, programmes and procedures should be ordered and controlled by relevant laws to provide guidance for school system to preserve lives. It is in the light of this that Ohia and Adieme (2018) noted that, in Nigeria, the school organisation, like every other organisation or institution, has rules and regulations that are set in forms of education laws, statutes, policies, teachers' ethics, service manual, professional code of conduct, and other significant laws that guide its governance and regulate the behaviour of the teachers.

Education laws provide the much needed and timely removal of unwanted acts of indiscipline and misconduct which sometimes are found in the educational system. It could or reduce infamous acts by staff and students, fraudulent registration taking place in schools, forgery, mutilation of official documents, fighting, stealing, intimidation, sexual harassment, examination malpractice, illegal collection of monies, and other infractions, thus reducing to the barest minimum its impacts (Gladday in Nwabueze and Ihuoma, 2018).

Education Law

Education law is that aspects of law that deals specifically with legal situations in education. This caters mainly for issues that have to do with education. It enables actors in educational institutions to know how to go about their work and to avoid litigations. Law has been defined by many scholars to mean rules and regulations guiding behaviour however, Wey –Amaewhule (2018) has explained that, the term law has been defined as a rule of civil conduct prescribed praising what is right and prohibiting what is wrong. It covers the sum total of those general rules of action as are enforced by a sovereign political authority. In other words, law refers to a body of rules and regulations put together by government for the purpose of ensuring peace and order.

Education law focuses on issues that have to do with teachers and students rights; discipline, duties of care, instructions and stretches to the general administration and management of the schools. Education law derives from the

law of the larger society hence education law is part of the constitution, it can come in the form of decrees, edicts, bye-laws and common laws such as court decisions or judge made- laws, administrative and executive directive such as those found in memos, circulars, letters and guidelines from the Ministry of education, the National policy on education (NPE) and school rules and regulations (Kalagbor, 2015). As members of the society have human rights as the entitlement to every citizen, the same way are the students entitled to some rights such as those enumerated below:

- the right to life,
- the right to dignity of human person,
- right to personal liberty,
- right to fair hearing,
- right to private and family life,
- freedom of thought,
- conscience and religion,
- freedom of expression and the press,
- right to peaceful assembly and association,
- right to freedom of movement and
- right to freedom from discrimination

Added to these are other rights specific to schools such as:

- access to school subjects,
- students' appearances,
- students with special needs

These are matters associated with students' right which needs to be protected in the school system. While others rights that border on school rules and regulations are as follows: equal educational opportunities, freedom of speech and expression, search and seizure.

On the part of the teachers in school the doctrine of *in -loco parentis* allows them to act in ways that are in the best interest of the child. The doctrine allows the school management and their teachers to acts as a non biological parent with the legal rights and responsibility of biological parents. It allows the school management carryout the duties and responsibilities of the parents recognizing the fact that both legal and moral obligation rest upon the school management as they carry out this duty. Hence, the doctrine of school discipline according to Nakpodia in Nwabueze and Ihuoma (2018), rest on the concept of "in loco parentis" which gives school authorities full responsibility for children's upbringing, the right of discipline and control. In effect, teachers

have the right to punish students who contravene school laws. Nakpodia went further to say that, the doctrine of in loco parentis had been based on the belief that by sending their children to school, parents agree to entrust school officials with the parental authority to control their children's conduct in a way that will be of best interest to the child.

The school authority and their staff must be careful not to falter in their exercise of the duty of care in school administration. They must be mindful to avoid issues of tort, negligence, breach of duty of care and such like. With a good understanding of these aspects of law the teachers and the school authority will be able to avoid and manage issues in their institutions that would have brought about litigations with a long term effect on teaching and learning.

Need for Courses in Education Law for Undergraduate Programmes in Faculty of Education

The Nigerian society today is become increasingly challenging and this is having a toll on the educational institutions from the kindergarten to down to the secondary and tertiary institutions of learning. It is important for educational managers to be adequately prepared for the challenges that they are likely to face in the management of the institutions. Thus, one will strongly advocated that teacher trainees be exposed to courses in education law beginning from their year one through their stay in the university. This will prepare them for the challenges ahead and make well prepared to handle these challenges properly as at when they occur. No wonder, Nwagwu, Peretomode, Kalagbor in Kalagbor (2015) all commented on the low-level of awareness of some school authorities, including the teachers on issues about laws in connection with school administration and management. In the words of Kalagbor (2015), the growing literacy and complexities of the educational environment and the entire society, and their effects on school system demand an urgent need for the knowledge of education law in undergraduate and post graduate courses in Colleges of education and Faculties of education in universities. This has become imperative, as it will help them avoid or learn to manage properly actions and behaviours that can lead to litigations or court cases against participants. Therefore, in the fulfillment of the duty of care to their students they should be able to avoid issues of litigation. It is imperative for educators to have adequate knowledge of education law for the following reasons as enumerated in the extract from Kalagbor (2015) that:

1. Education law regulates the day to day operations and activities in the school system and as such moderates the actions of the school community members.
2. Education laws helps educational system to achieve the goals of education in an orderly manner giving opportunity for legitimate in order to achieve the purposes of education. This is made possible as education law allow for peace, order and stability in the school environment for effective and efficient management of personnel and material resources so as to achieve the much-needed standard in education.
3. Education law exposes how the actions of school managers and institutional members, teachers and students can be involved in litigations if they are not mindful of rules regulations in the school environment.
4. Legal aspects of educational practices improve the legal awareness of educationists and educators developing in them a higher degree of competence and effective the performance of their statutory duties in the educational sector of the nation.
5. Education law helps to manage discrimination in educational industry. This has helped physically challenged, albinism and persons of different religion to acquire education within the same premises.

With the knowledge of the need and relevance of education law to teachers and educators in general it is therefore necessary that education law courses be introduced early in the course of their training to improve their understanding and application of the law.

The Role of Education Law in Equipping the 21st Century Teachers against Litigations

Education law plays a very big role in equipping the 21st century teachers or educators against litigations in the 21st century schools in Nigeria. Many cases involving teachers or school management and students could have been better managed with the knowledge of the aspects of education laws that relate to educators and relationship with students and parents. Some 21st century teachers have no knowledge of the legal aspects of their job to guide them through their day to day interactions with students and other staff. According to Aprioku (2018:27) “most educators have little or no knowledge of the legal aspects that specifically relates to students’ administration.” Adding that,

principals and teachers usually make wrong decisions in handling students' matters and these have legal underpinnings. If principals who are leaders in schools and agent of change have no good knowledge of the legal aspects of school administration, how will they manage schools and teachers to avoid litigations at the same time? Dienye and Dienye (2006) have said that, the principal in the secondary level of education occupies a very important position as a leader and a change agent. With his leadership role in curriculum development and programme of instruction: staff and students personnel management; school business management and school - community relationship brings about important changes which are capable of affecting staff and students in the realization of goals of education in the nation.

For the principal to have a conducive atmosphere to carry on the above-mentioned duties he needs to understand the legal aspects of school administration. With this knowledge principals will give their best administrative practices to staff, students and parents in secondary schools. To buttress further the role of education law in equipping the 21st century teachers in 21st century schools in Nigeria against litigations, some cases in education law are cited as follows:

1. Igwe (2010: 276) related a case: *Kinzer vs Directors of Independent School District of Marion*, Supreme Court of Iowa. The board of Directors of the above-named school has laid down rules that a student who causes another student to have an injury during a football game should not be allowed to participate in subsequent football games. But the plaintiff Kinzer violated this rule and was suspended from the high school until he apologized to the superintendent before the school and through the superintendent to the board for willful violation of a rule adopted by the board. The Court ruled in favour of the defendant Board of Directors. And as such the principal in acting *in loco parentis* must ensure that he disciplines an offending student who violates a school rule. In this case the knowledge of education law helped the school to know their rights in *acting in loco parentis* to lay down rules that will help to protect students from unnecessary injuries by other students during games.

2. In another decided case as explain by Igwe (2010: 277), *Fasahunsi Kokori vs A.I. Ukhure and State Board of Education, Benin City*. A teacher, A.I. Ukhure vicariously authorised by the principal was alleged to have subjected and inflicted corporal punishment upon a student, Fasahunsi Kokori to the extent that the student lost one eye sights in that process of control and discipline. The

Court ruling based on section 30 and 31 of the 197 Constitution of the Federal Republic of Nigeria which provided the child's right to life and human dignity, charged the teacher for tort disability and negligence and therefore ruled in favour of the student and awarded N20,000(Twenty Thousand Naira) as damages to the student. It is obvious here that the teacher was unaware of the educational law which pre-disposes the teacher to the duty of care in school administration. Knowledge of such would have exposed him to the understanding of tort, intentional tort, accidents, recklessness and negligence. Armed with this knowledge the teacher would have showed more carefulness in carrying out the discipline he was authorized to execute by the principal and avoid litigation.

Conclusion

From this study, it can be seen that the 21st century teacher and indeed the school management needs the legal aspects of educational administration concerned with secondary school administration. It is very important that institutions training these teachers should include education law courses from year one through final year so that the would-be teachers and administrators are sufficiently equipped for their job and how-to navigation their way through their career with little or no litigations. This will give them a clear sense of focus in delivery their duty as a teacher and achieve the secondary institutions goals and objectives.

Suggestions

The researcher gave the following suggestions:

1. Colleges of education and department of education in Universities should include courses on legal aspects of educational administration from year one through final year.
2. The teacher should understand that the 21st century students and parents have a good understanding of their rights and privileges as there are more learned parents now than before.
3. Parents should give more attention to raising their wards properly to reduce disciplinary issues that can lead to litigations.

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