



Education Law and Facility Management at the Secondary School Level in Nigeria

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Abstract

In education as in other fields of human endeavour, every official action of an organisation must have a backing or a basis. It is this purpose that laws and policies serve. The formulation of an educational policy sets the stage for implementation and the proper enforcement of education laws ensure effective administration and facility management of schools. Nigerian educational system has evolved over the years through a series of reforms since independence. These reforms were designed to provide a good organizational structure that would enable the nation to achieve her national goals of social, political, economic and technological advancement. The rules and regulations guiding the management and operation of education should be such that the roles of the stakeholders are spelt out in specific terms. To ensure efficiency in the management of facilities at the secondary school level, educational laws should be effectively implemented by the government, adequate funds and facilities provided and professional skilled personnel, teachers and administrators put in place.

Keywords: Education laws, Implementation, Ministry of Education, Facility management, Secondary schools, Nigeria.

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INTRODUCTION

Education in Nigeria is overseen by the Ministry of Education. Local authorities take responsibility for implementing state-controlled policy regarding public education and state schools. The schools whether private or public is a public institution established by law and certain prescribed functions of legal consideration, they are public institutions in the sense that they are established to serve the public and can be sue or sued since there is a law establishing it as a cooperate organization with the aim of carrying out specific duties in line with the rules and regulations as embodied in the various states and Federal Government Education Laws, codes, ordinances, Decrees and Edicts; (Oloko, 2014). The educational system which is a social organisation, is administered and managed through laws, rules and regulations which are to provide a framework for modulating the behaviour and activities of members of the organisation. The ultimate purpose is to ensure that law and order prevail and thus a conducive environment is established for the efficient and effective achievement of the goals and objectives of the organisation. Education laws are very important in the education system because of the multiplicity of objectives and the large numbers of people with different backgrounds involve which includes school administrators, teachers, students and parents, community leaders and members; government officials, agencies and parastatals who are stakeholders assigned specific functions, roles and responsibilities.

Educational laws and their proper implementation are the basis of effective and efficient management of school facilities which includes the physical and spatial enablers of teaching and learning (school administrators, teachers and students; blocks of classrooms, laboratories, workshops, libraries, equipment, consumables, electricity, water, visual and audio-visual aids, tables, desks, chairs, playground, storage space and toilets).

Defining the Concept of Law

Law can simply be defined as a rule or a body of rules to which actions conform. Blackstone, an English jurist, defines law as a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong. To Houghteling (1963), law is a dynamic process, a system of regularized, institutionalized procedures for the orderly decision of social questions, including the settlement of disputes

One definition of law which has received wide acceptance is that formulated by the American Law Institute. It defines law as the body of principles, standards and rules which the courts of a particular state or country apply in the decision of controversies brought before them. Laws are also decisions and provisions for the establishment and protection of fundamental human rights. Laws are intended to regulate the relationships and associations between individuals, groups, organizations and institutions. The purpose is to achieve order, justice and peace. Harmonious coexistence and interaction even in the pursuit of divergent interests and aspirations can only occur when there is respect for the rule of law. This implies that behaviour must conform to recognized principles and standards of conduct that have been laid down by competent authorities within the society or organization. There is, of course, the issue of jurisdiction in the formulation and enforcement of laws. The issue concerns not only the source of authority, but also the geopolitical location. Courts are established as official centers and authorities for deciding and resolving claims and controversies. Courts also punish offenders and award damages to people or groups that have been injured or denied their rights by other people or groups.

Implicit in these definitions are the ideas that law provides a framework for group relations and serves as a vastly complex mechanism or system for social control. It permits, regulates and prohibits certain conducts for the purpose of achieving harmony in society. It

thus delimits individual liberty for the protection of social interest. Nwagwu (2004) pointed out that the term law has been defined in different ways by scholars (Reutter, 1970; Nwagwu, 1987; Peretomode, 1992; Taiwo, 1993).

Concept of Educational Law

Education laws are simply those laws that have been enacted specifically for the organisation, administration and control of the education system. They are the body of state and federal constitutional provisions; local, state, and federal statutes; court opinions; and government regulations that provide the legal framework for educational institutions. Education law deals with the sources of funding that school organizations use to acquire resources, as well as the requirements teachers and other faculty and staff must meet to be certified, trained, hired, retained, and fired. Education Law is the area of law that relates to schools, teachers, and the rights of the citizens to a public education, as well as standards for those students who attend private schools.

Education law is the portion of the law in a state, country or city that specifically governs educational bodies such as public and private schools and universities. Various education laws cover every aspect of education and school systems. Education law informs both policy and practice. When educators and administrators are uninformed about the law, they often make decisions that only serve to exacerbate the issues. Consequently, it is becoming more common for educators to pursue legal training and law degrees.

Education law is the body of state and federal law that covers teachers, schools, school districts, school boards, and the students they teach. Although the public school system is administered by the federal Department of Education, states are responsible for maintaining and operating public schools in compliance with state and federal laws. Education laws govern liability, curriculum standards, testing procedures, school finance, student financial aid, constitutional rights like school prayer and the bounds of student expression on school grounds, and school safety.

Characteristics of Education Law

In his work entitled *The Morality of Law*, Fuller (1969, pp. 49-91), identified eight desirable characteristics or qualities which a good legal system should have. They are also applicable to a good system of education law. These are:

- General rules (standards) of conduct;
- Publication of the laws sufficient to subject them to public criticism;
- Minimum reliance on retroactive laws;
- Clear laws and clear standards of decisions, that is, a minimum of obscurity, incoherence and vagueness;
- As few contradictory laws as possible;
- Law within the citizen's capacity for obedience;
- Law which is relatively consistent through time (i.e., it should not be too static);
- Conformity of official action with declared rule (Peretomode, 1992).

Importance of Education Law

Education law is an important and indispensable tool a course necessary for the on-the-job survival of practical school administrators and teachers today. Issues that relate to both law and education have become increasingly prevalent in recent times.

In Nigeria, most teachers are not aware of their rights, let alone those of others. Similarly, many are ignorant of the rules and regulations governing their employment and the school system in which they work. Consequently, most of them are not aware of the legal implications of their actions (or inactions and limitations). This dismal situation was vividly illustrated by Nwagwu (1984) when he wrote: Most teachers in our school system have never read the Nigerian constitution nor even the laws, rules and regulations governing the administration of the school system. Many are not aware of their rights, duties, obligations and responsibilities under the law and more especially on the probable consequences or implications of their actions in their day- to-day activities within the school systems.

Nwagwu went further to point out that: “Most teachers do not have a copy of their state Teachers Service Manual (or Handbook of Service) and the few who have them still remain ignorant of the contents and provisions because they have never read the contents. Consequently, most teachers are not aware of their legal and moral obligations to their employers, their fellow teachers and their students. They do not know and appreciate the general principles and provisions of law and regulations as they apply in handling issues of order and discipline in schools’ (p. 115).

In this age of enlightenment, such ignorance may no doubt be costly, if not disastrous, to the individual, the education system and others within the system. While the purpose of a course in education law is not to make the student his own lawyer, it is definitely aimed at helping students, school administrators, teachers and staff to:

- Understand the legal aspects of education;
- Learn the basic principles of law and to develop some degree of competence in applying them to educational problems;
- Recognize situations in which it is not safe to proceed without competent legal advice;
- Recognize that many education decisions with legal implications (e.g., suspensions, expulsions, etc.) may safely be made without advice from a lawyer, if those decisions are made in conformity with basic, well-defined principles or laid down guidelines (Hoeber et al., 1982, pp. 11-12).

The complexity of the educational environment and society and their effects on educational and school administration necessitates the urgent need for legally literate teachers and school administrators (officials with the knowledge of education law), or anyone who is going to occupy a responsible position in educational institutions in Nigeria (Barr, 1983). Furthermore, the purposes of educational law are seen as:

- They enable the government take proper control of education and all related activities.
- They promote regulations for the development of the system and curriculum changes,
- They help to define the powers of functionaries and agencies as well as the implications of teacher registration and professionalism in teaching (Olagboye and Fadipe, 1998, p. 23).

Education Law and facility Management of the Educational System at the Secondary school level

Education is placed on the concurrent legislative list in the 1999 Constitution that provides the legal framework for educational management in Nigeria. This implies that both Federal and State Governments have legislative jurisdiction and corresponding functional responsibilities with respect to education.

Facility Management

School facilities are materials resources that enhance teaching and learning thereby making the process meaningful and purposeful. School facilities can be referred to as school plant. School facilities can be defined as the entire school plant which school administrators, teachers and students harness, allocate and utilize for the smooth and efficient management of any educational institution, for the main objective of bringing about effective and purposeful teaching and learning experience. According to Adeboyeje (2000) and Emetarom (2004), school facilities are the physical and spatial enablers of teaching and learning which will increase the production of results. School facilities serve as pillars of support for effective teaching and learning. Oyesola (2000) sees school facilities to include permanent and semi-permanent structures such as machinery, laboratory equipment, the blackboard, teacher's tools and other equipment as well as consumables. Good quality and standard of school depend largely on the provision, adequacy, unitization and management of educational facilities.

Akinsolu (2004) asserted that educational curriculum cannot be sound and well operated with poor and badly managed school facilities. School facilities are physical resources that facilitate effective teaching and learning. They include blocks of classrooms, laboratories, workshops, libraries, equipment, consumables, electricity, water, visual and audio-visual aids, tables, desks, chairs, playground, storage space and toilets. In Nigeria, public school enrolment has continued to increase without a corresponding increase in facilities for effective teaching and learning. As a result of underfunding of education in Nigeria, the government has been encouraging proper maintenance of available school facilities. School facility maintenance entails ensuring that the facilities are kept near their original state as possible. School facilities management involves keeping records of the facilities, supervising the facilities, planning for the facilities, motivating students and teachers to participate in facilities maintenance and evaluating the available facilities. In addition, Adesina (1999) stressed that the quality and quantity of educational facilities available within an educational system positively correlates with the quality and standard of the educational system. Durosaro (1998) examined school plant planning in relation to administrative effectiveness of secondary schools.

In the effective and efficient management of secondary schools, a few functions are exclusively assigned to the Federal or State Government, but most of the functions and responsibilities are in fact shared by the three-tiers of government, which are the federal level, state level and the local government level. At the secondary level, there are eighty three (83) Federal Government Colleges and nineteen (19) Federal Science and Technical Colleges, spread across the states. All other public secondary schools are managed and financed by State Governments through the State Ministries of Education.

The Federal Ministry of Education is made up of the following operational departments, divisions and units:

- Planning, Research and Statistics (PRS);
- Education Sector Analysis Unit (ESA) of the PRS;
- The Department of Primary and Secondary Education;
- The Higher Education Department;
- The Department of Technology and Science Education;
- The Department of Educational Support Services;
- The National Project Coordinating Unit (NPCU);
- The General Education Support Services Division;
- The HIV/AIDS Unit;

- The Special Education Department;
- The Federal Inspectorate Service Department.

Presently, there is dual control of secondary schools (management by government and the private sector) in all the states of the federation. The state government manages secondary school education in the state through the Ministry of Education and Post Primary Education Board. The Ministry is responsible for the formulation of educational policies for the state. The policy is expected to derive from the National Policy on Education at the federal level. The departments in the ministry of education implement the state policy on education. There are specialized departments whose functions pertain to specific aspects of the education sector. They are:

- Planning, Research and Statistics Department;
- Science, Vocational and Technical Department;
- Schools Department;
- The Inspectorate Department
- Higher Education;
- Examinations and Standards

Laws on Secondary Education

The following are the relevant laws:

- Decree No. 4 of 1986 was promulgated on Federal Government Colleges. The law constituted governing councils to manage the Colleges.
- Decree No. 27 of 1973 was promulgated to regulate the operation of the West African Examinations Council in Nigeria. The Council conducts examinations for secondary school leavers and is responsible for their certification. It also, in the past, conducted entrance examinations into Federal Government Colleges.
- National Examinations Council (NECO) Act of 2001 was passed by the National Assembly as a parallel body to WAEC for conducting examinations for secondary school leavers, and for the certification of successful candidates. NECO has a Governing Board, and its functions include: conducting examinations into Federal Government Colleges and other allied institutions, the Suleja Academy and the development and administration of Aptitude Tests. NECO replaced the National Board for Educational Measurement (NBEM), which was established by Decree No. 69 of 1993.
- Universal Basic Education Act of 2004. The National Assembly and the Presidency haggled over differences on this Bill for over two years until it was passed into law in 2004. Section One makes it obligatory for all governments in Nigeria to provide free, compulsory and universal basic education for every child of primary and junior secondary school age, all adult illiterates, and persons with special education needs. There is a National Council on UBE, State Basic Education Board (SBEB), and Local Government Education Authority (LGEA). Penalties are specified for defaulting parents.
- Decree No. 70 of 1993 established the National Business and Technical Examinations Board (NABTEB) to conduct examination in business and technical subjects. It has a Post Examination Investigation Committee.

Implementation of the Secondary Education Policy

The implementation of the 3-3 aspect of the national education policy has equally been very contentious. Some states of the Federation started implementing the policy in 1982 while others followed gradually. The policy which was initiated to guarantee functional education after the American model has become even worse than the British system that was adjudged non-developmental. Studies, seminars, conferences and individuals have confirmed that the goals of the secondary education policy have not been achieved due to ineffective implementation.

A study by Okoroma (2001, p. 95) on the evaluation of the 3-3 aspect of the National Policy on Education in Nigeria revealed that effective implementation of the policy has been hindered by the following factors:

- Inadequate teaching staff ;
- Poor motivation of teachers;
- Lack of adequate workshops;
- Inadequate teaching and learning facilities such as laboratories and libraries
Insufficient funds, and
- Non-availability of guidance and counselling services.

The state of education in Nigeria is still deplorable. It is so bad that some resourceful Nigerians prefer to send their children to Europe, America and even small African countries such as Ghana in that they have adequate learning facilities. Apart from the general problems of policy implementation common to most countries, especially those of the third world, some factors have been identified as peculiar to Nigeria and inhibiting her educational growth.

Lack of Political Will and Continuity of Programs

Hodges (2001, p. 26) when he noted: “In the final analysis, Nigeria’s development failures have sprung from the lack of success in achieving an effective model of governance. At the head of this problem has been the instability generated by the rivalry for control of the huge resources accruing to the State from the oil industry, and the use of political power to milk the state for personal gain rather than promote economic and social development.”

So, educational policies were formulated by various governments but political instability stalled or discouraged the political will to implement such policies. As new governments came in quick succession and with relative uncertainty, continuity in policies could not be guaranteed. This has affected educational policy implementation in Nigeria.

Corruption

Corruption has contributed to stagnate the development of education in Nigeria. Some good educational policies have been put in place but are often derailed at the implementation stage due to a number of reasons:

- The budgets for the implementation of the policies are often passed by lawmakers with strings attached to them;
- Even when the budgets are passed, the executive arm of government is often reluctant to release the funds to facilitate implementation, and

- The inadequate funds often released to the operators of the education system (primary schools, secondary schools and tertiary institutions) are not honestly and fully utilised to promote the cause of education.
- Many corruptly divert much of the available education resources to serve personal interests. Aghenta (1984) supports these observations with the following assertion: “The money available is never carefully used. The money the government votes for running the schools ... does not get to the schools and the little that gets there is normally wasted by those whose responsibility it is to manage the schools.”

CONCLUSION AND RECOMMENDATIONS

Various educational laws and policies in the interest of education have been formulated. Unfortunately, these efforts have not produced the desired effect. Government ineptitude and lack of political will for effective implementation and corruption at all levels hinders the implementation of educational policies and programs. Numerous other challenges due to unavailability of professional skilled personnel and fund not released by the State School Board stand as an impediment for the enforcement of educational laws for effective administration in public senior secondary schools. For effective and efficient facility management at the secondary school level:

- Nigeria Ministry of Education should employ professional staff that will help in the enforcement of educational law for effective administration of public senior secondary schools;
- Specific amount of funds should be allocated from the budget for the enforcement of educational laws for effective administration in public senior secondary schools in Nigeria;
- The Ministry of Education should conduct orientation programmes for all the stakeholders on the enforcement of educational laws for effective administration of public senior secondary schools in Nigeria;
- Conducive environment should be provided by the State Schools Board for effective and efficient enforcement of educational laws for effective administration in public senior secondary schools in Nigeria;
- Nigerian governments and leaders should develop the necessary political will for education to grow, dropping aside bias and forging towards growth and development;
- Every effort should be made to eradicate corruption from all spheres of Nigeria’s various programs so that available resources can be utilised for public interest.

REFERENCES

- Adeboyeje, R. A. (2000). *Management of School Physical facilities*. Ibadan: Foundation Publications.
- Adesina, S. (1977). *Planning and educational development in Nigeria*. Ibadan: Education Industries.
- Aghenta, J. A. (1984). Towards a systems approach to the planning of secondary education in Nigeria. In Adesina, Segun and Ogusaju (Eds.), *Secondary education in Nigeria*. Ile Ife: University of Ife Press.
- Akinsolu, R. A. (2004). Provision and Management of Facilities in Nigerian Primary Schools. In E. O. Fagbemiye, J. B. Babalola, M. Fabunmi & A. Ayeni (Eds.), *Management of Primary and Secondary Education in Nigeria*. NAEAP publications.

- Barr, M. J. (1983). Legal constraints on colleges and universities. In M. J. Barr (Ed.), *Student Affairs and the law*. San Francisco, CN: Jossey-Bass.
- Durosaro, D.O. (1998). School Plant Management practice in Nigeria: Trends Issues and Problems. In A. A. Olagboye & J. O. Fadipe (Eds.), *Management of Nigerian Education: Project Monitoring and School Plant Maintenance*, Ondo: NEPA.
- Emetarom, U. C. (2004). Provision and Management of Facilities in Primary Schools in Nigeria: Implication for Policy Formulation. In E.O. Fagbemiye, J. B. Babalola et al. *Management of Primary and Secondary Education in Nigeria*. NAEAP publication.
- Fuller, L. L. (1969). *The morality of law*. London: Yale University Press.
- Hodges, A. (2001). Children's and women's rights in Nigeria: a wake-up call. Abuja: National Planning Commission and UNICEF.
- Hoerber, Ralph. C. and Others (1982). *Contemporary Business Law, Principles and Cases*. 2nd Edition. New York; McGraw-Hill Books Company.
- Houghtelling, Jr. & James L. (1963). *The dynamics of law*. New York: Harcourt Brace Jovanovich.
- Nwagwu, N. A. (1984). Law and Order in the Administration of Schools in S. Adesina and S. Ogunsaju (Eds.), *Secondary education in Nigeria* (pp. 114-128). Ile-Ife: University of Ife Press.
- Nwagwu, N. A. (1987). *Education and the Law in Nigeria: The Rights of Teachers and Students*. Owerri: Kay Bee Cee Publishers.
- Nwagwu, N. A. (1993). Historical Development of Educational Laws in Nigeria. Yoloye, E. A. (Ed.), *Education and the law in Nigeria*. Ibadan: Claverianum Press Printers and Publishers.
- Nwagwu, N. A. (2004). Laws and Decrees in the Nigerian Education. In Nwagwu, N.A., Ijeoka, M. E. & Nwagwu, C. C. (Eds.), *Organisation and Administration of Education: Perspectives and Practices*. Benin City: Festa printing Press.
- Okoroma, N. S. (2001). 'An evaluation study of the 3-3 aspect of the National Policy on Education in Port Harcourt and Obio/Akpor Local Government areas of Rivers State', *Journal of Technical and Science Education*, 10(1&2).
- Olagboye, A. A., & Fadipe, J. O. (1998). *Management of Nigerian Education: Law, Structures and Responsibilities*. Ondo: NIEPA.
- Oloko, O.O. (2014). Implication of educational law in most public senior secondary schools in Ogun States. *International Journal on Law and Diplomatic Studies*, 5(2) 31 -45.
- Peretomode, V. F. (1992). *Education law: principles, cases and materials on schools*. Owerri: International Universities Press.
- Reutter, E. E., & Hamilton, R. R. (1970). *The Law of Public Education*. New York: The Foundation Press.
- Taiwo, C. O. (1993). The Role of Law in Education. In E. A. Yoloye (Ed.), *Education and the Law in Nigeria* (pp. 1- 9). Ibadan: NAE Yearbook.

Education Acts:

NECO Act of 2001

UBE Act of 2004

NOU Act of 1983

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