



# Administration of Education Law and Student Personnel Service in Public Secondary Schools in Rivers State

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## Abstract

This study examines administration of education law and student personnel service in public secondary schools in Rivers State. Student personnel administration is key to the smooth running of the education industry. The students constitute the largest population of the human resource in the school and need to be guided, by the law, rules and regulations of the school to make for strict adherence of the educational law by both staff and students in order to promote effective teaching and learning process geared towards changing the behavioural pattern of the learner. The education law exists for the general good of all stakeholders in the attainment of stated educational goals. It therefore behooves on the educational managers to respect the child right Act (CRA) as entrenched in the 1999 Nigerian constitution and pave the way for all children of school age to have access to school by not charging outrageous school fees that can be affordable by parents/guardians, and at the same time sensitize parents/guardians of eminent prosecution and imprisonment if their children/ward of school age are not sent to school. The study highlighted the purpose of the law, legal rights of the students, sources of education law in Nigeria and breach of the law in educational institution which include examination malpractices, forgery, plagiarisation and so on. In conclusion, education law as enshrined in the 1999 constitution need to be administered by the school administrators on students without fear or favour to avoid unnecessary litigation that inhibit effective secondary school education delivery. It was recommended among others that prescribed punishment to students by school administrators should be commensurate to the offence committed so as to avoid unnecessary demonstration or litigation which disrupts smooth academic calendar.

**Keywords:** School Administration, Education Law, Student, Personnel, Service Delivery.

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## INTRODUCTION

The effective operation of the school system is dependent on laws, rules and regulations that guide the behaviour of students who constitute the largest population of the human resources. The law at every point in time in the school system should guide and protect the students, and at the same time serve as punishment to deviant behaviour in order to make for effective teaching and learning process to take place aimed at changing the behavioral pattern of the learner.

David-West (2016) asserted that the school exists and will continue to exist for the sake of the students (learners) and therefore school authorities should appropriately dispense justice without fear of favour so as to avoid litigation. Over the years, litigations have continued to dominate the scene in the school system. Most of these cases have been won by the students (plaintiffs) because of various form of negligence on the part of the school authority. The school should be guided by law in their dealings with these students put under their custody and not to pervert justice that is inimical to the smooth running of the school system. As much as possible, the school managers (principal and teachers) should guide against been sued so as to achieve coveted educational objective. School leaders can reduce the chances of being found liable in court if their statutory duties assigned to them are carried out with utmost dispatch. The school administrators are chiefly concerned with the co-ordination of the human and material resources for effective teaching and learning process. This means that negligence of this duty will lead to breakdown of law and order which is detrimental to the corporate existence of the school system. The school managers and students must be effectively and sufficiently guided not to deviate from the norms laws, rules and regulations of the educational industry for the attainment of desired educational results. It is the duty of school controllers to ensure that appropriate disciplinary measures in line with the child Right Act (CRA) as enshrined in the 1999 Nigerian constitution are maintained.

Disciplinary measures correct character flaws in order to preserve the dignity of the school and avoid unnecessary litigation. Uche (2009) opined that school administrators should provide moral, disciplinary leadership and supervision in the school in order to ensure that teaching and learning take place in a condition of appropriate social order. The scholar listed some of the disciplinary problems in the school which must be checked or punished to serve as a deterrent to others namely: absence from school; lateness to school; loitering during official hours; disobedience to school head; leaking of examination papers; using official hours for private business; refusal to participate in co-curricular activities; fighting in the school; misuse of school property; improper dressing; stealing (Uche, 2009). For effective students-personnel delivery school managers need to appreciate and appropriately dispense the administration of educational law, to forestall students' perception of implementation of these laws as tyranny and oppression. When students see these laws unfriendly to them litigation becomes the order of the day.

To achieve discipline, Atanda (2012) stated that indiscipline can be averted through the followings: good school management; careful planning of the school work programme; imbibing team spirit in school work effective rules and regulations; emphasis on moral education; equal treatment of all staff and students. David-West and Abraham (2017) maintained that discipline could be improved in schools via Parents Teachers Association (PTA), training of school administrators, moral and religious teaching, parents playing positive roles in the upbringing of their children, improved career prospects in teaching and provision of suggestion box. Law and order need to be maintained in the effective running of schools. Laws are the body of principles,

standards and rules which the courts of a particular state or country apply in the decision of controversies. This definition implies that laws provide a framework for group relations and serves as a vastly complex mechanism for social control. It permits, regulates and prohibits certain conducts for the purpose of achieving harmony in society.

### **Classification of Law**

Law is classified into the following:

- Criminal law and civil law;
- Public law and private law;
- Substantive law and public law;
- Written and unwritten law;
- Municipal law and procedural law);
- Common law and equity.

### **Purpose of Law**

- Peace order and stability in society;
- Justice of equity in human dealing and interactions;
- Standards by which right and wrong can be determined and sanctions applied where necessary;
- Basis of discipline, order, progress and development;
- Means of guarantee against arbitrary use and abuse of power and authority.

That consistency and firmness in the enforcement of rules and regulations should be strictly adhered to-no god fatherism, nepotism and favouritism. Adeyemi (2012) argued that the action to be taken should be commensurate to the nature and gravity of the offence committed. At all times, the administrators should be firm, courageous and fair to all so as to avoid litigation.

The growing complexity of the Nigerian society coupled with increasing cases of litigation involving schools and their student demand that student disciplinary cases should be handled with much care internally. The burden or responsibility to prove the guilt of a student facing a disciplinary charge lies on the part of the prosecuting side- the school authority through those who made a complain against a student. Proof of guilt is established when there are sufficient, corroborated and supportive evidence, based on unbiased testimonies of eye witnesses and exhibits produced and accepted as valid during trial.

The legal principle of mens rea, which stipulates that an action becomes a punishable offence only if and when it was preceded by an a priori motives or criminal intention. This principle also applies to offences committed by people proved to be of unsound mind, actions taken under grave provocation, danger and threat to life in self defence, and actions committed by young persons under the age of seven. However, the principle of mens rea does not include culpable or criminal negligence.

It is the duty of the school management to effectively and sufficiently understand the implication of education law in their dealings with the students to achieve the predetermined educational objectives geared towards learners' behaviour change.

## **Legal Rights of Students**

- Freedom to observe or not observe a religion;
- Freedom from arbitrary harassment, interrogation, search or seizure;
- Right to grievance and appeal process in pursuit of redresses;
- Freedom of assembly, speech, expression and of press within the law;
- Right to education and access to educational facilities and
- Right to inspect school recordings where there is a good cause to do so (Amirize, 2001).

Handicapped children also have a right to receive the benefit of public education which is embedded in special education which takes care of the education for gifted and hyper-intelligent children.

The students have the obligation to acquaint themselves with rules and regulations of the institutions they are admitted into, and keep and respect such laws. It must be noted that ignorance of the law does not constitute a defence in cases of breach of the law. The custodian role which educational institutions are meant to play demands that secondary school managements should provide some protection, counseling, guidance and orientation for their students which would acquaint them with the laws of the institutions. Laws and administration are instruments for the enhancement of the well-being of man and human societies and for the provision of a conducive environment within which people can operate, interact and live at their optimum. The rule of law should be effectively observed in the school system so that an offender does not suffer double jeopardy or penalties or punishments for the same offence.

## **Breach of the Law in Educational Institutions**

Areas of breach of the law commonly associated with educational institutions that need to be effectively managed by educational administrators, just to avoid unnecessary litigations capable to disrupt the effective operation of the school system include:

- Examination malpractice involving various categories of students;
- Forgeries of financial documents and certificates involving both students, administrative and academic staff and usually connected with fraud and false claims especially with regard to educational qualifications;
- Infringe rent of copyright law through plagiarism and book privacy;
- Libel, sedition and obscene publications;
- Sexual harassment and such complaints which often arise from students against lecturers, although some female students devise many subtle ways of seducing and harassing lecturers and other male students;
- Lesbianism and homosexual offences (known in campuses as “supe”);
- Stealing, ranging from petty pilferage to serious cases involving huge sum of money, occurring both in students hostels and offices or staff quarters;
- Assaults, disorderly behaviour, conducts likely to cause a breach of the peace, affray and gang-fights, some of which arise from cult-activities and involving mostly students;
- Frauds of different kinds and occurring in the bursary and accounts department, students union finances, and in other areas where money and money-related transactions take

place; Malicious damage, arson and such offences connected with or resulting from mob actions or riots occurring in campuses (Amirize, 2001).

It is imperative to state that in the criminal code, laws of Nigeria (1963 edition) there was no section dealing with examination malpractices and campus cult phenomenon; that was why Decree No 20 of 1984 and Decree No. 47 of 1989 respectively promulgated took adequate care of such offences. The school authorities should be knowledgeable enough to effectively coordinate the human and material resources in the realization of optimal educational goals. The school management should know that it is a punishable offence under section 351 of the criminal laws of Nigeria for a lecturer/teacher or invigilator to slap a student in the class or examination hall; similarly, it is also punishable by law under section 353 of the criminal code for a lecturer/teacher or invigilator in their thoughtlessness and disregard for the dignity of the human person, search female students in examination halls in manners that border on indecent assault. Hence, some students has hitherto gone to court of law to seek redress on such issues. The proper thing to do in this circumstance is to allow the female teachers or invigilators to search the female student cut in examination malpractice. In the same vein, do not slap a student involved in examination malpractice in the examination hall; simply administer the examination malpractice form to the student to fill and attach all the evidences to the form and make a formal report to the school authorities for necessary action.

### **Characteristics of Law**

Fuller (1969) in his masterpiece entitle “The Morality of Law” identified eight desirable qualities, which a good legal system should have, which includes that:

- There must be a general conduct;
- There should be a minimum reliance on retroactive law;
- The laws should be published in order to subject them to sufficient criticism;
- Clear law and standard of decision must be maintained to avoid obscurantism, incoherence and vagueness;
- There should be a few contradictory laws as possible;
- Laws must be written for the citizen capability for obedience;
- Laws must be relatively constant throughout time (i.e. laws should not be static but dynamic);
- Conformity of official action with declared rule.

### **Sources of Law**

An eminent American Jurist, Roscoe Pound in his book entitled, Introduction to Philosophy of Law has provided some explanation in respect to the origin of law as summarized:

- That law is a divine set of rules;
- That law is regarded as a tradition of old custom which have been proved acceptable to be good and therefore point the way in which many may work with safety. This idea is most acceptable to the primitive;

- That law is handed over to ages wise men who pragmatically ascertained the safe course divinely approved for human conduct;
- Law is an outcome of a consensus among men in politically organized societies;
- That law is a prescription of sovereign authority politically organized societies;
- That is a class phenomenon;
- That law is precipitation of the social and economic changes in society;
- The law is a system of precepts discovered by man experience whereby individual human being may realize a complete freedom possible.

### **Sources of Education Law in Nigeria**

The laws governing the smooth operation of education in Nigeria are derived from many sources which includes the following: common law, constitution law, ordinances, edict and decrees, education code.

#### **Common Law**

Since after Nigeria got her independence from her colonial master in 1960, the country still maintains some of her colonial heritages including the judicial proceeding. Common law refer to case law that are decided based on previous decision. These laws set precedence for future cases that will be decided on previous case laws. Most education laws are of this nature. Judgment made in Supreme Court fall into this category as judges quote judgment of supreme court when delivering judgment.

#### **Constitution Law**

Constitution is a body of fundamental rules, laws and customs by which a state is governed. It is a body of law within which governmental process may operate. It also spell out the right, power, function and limitation of individuals and the various arms of government.

The educational objective of ensuring that equal and adequate opportunities are available for all Nigerians at all level of education (section 18) spells:

- The right of citizens to education and freedom of thought (section 38), and right to freedom of discrimination (section 42 among other right; and
- The power of both of the federal government and state government to make laws on the subject of education, for the purpose of establishing educational institutions (First schedule part 11, section 4, items 27-30.

#### **Ordinances**

The ordinances are executive rule of bye-law set up by local authorities or bodies for the purpose of regulating activities within a given area. The colonial administration and local agencies largely used education ordinances during the early days of education in the country. This type of law represents decision and policies made by those that are in position of authorities in school organization, rules and policies are set up by the authorities during school board meetings

become binding on others within the school system. The authorities always come with rule to regulate the running of the school activities like the school principal and teachers.

### **Edict and Decrees**

Edicts and decrees in recent time constitute sources of law. Decrees and Edicts are military and civilian government enactment at the federal and state level respectively. When fully implemented, it becomes an education law.

### **Education Code**

Education code is a list of laws relating to operation and administration of education. It is a guide to both schools administration and other member of the school community to follow. Education code is a list of “do’s and don not drawn up to be followed with regard to school administration. When the rule and regulation are put together, they are known as education code. Many school administrator today still make use of education code in control of student and member of staff within the school system.

### **Education law content**

Obi (2004) clearly spelled out among others the educational codes enacted by the government and their agencies as follows:

- Educational administration involving the powers, functions, authorities and responsibilities of officers;
- The statutory system of public education x-raying the officials and legal system;
- Local education authorities – their levels and type of religion, race and curriculum;
- Establishment and closure of schools;
- Management of government and private schools;
- Supplementary provisions including schedules and sub-sections;
- Inspection of schools and its control;
- Teachers, their registration, appointment, duties, obligation, discriisal, etc.;
- Financial provision;
- Preliminary issues of legal interpretation and definition of terms;
- General provision related to educational practice, rights, obligations including pupils, parents and community or state on education, pupil admission, registration, ages and code of conduct;
- Other auxiliary matter (p. 31-33).

### **Nigerian Statute on Education**

The Nigerian statute on education comprises of the constitution of the Federal Republic of Nigeria, Universal Basic Education Commission Act and the child right Act.

## **Constitution of the Federal Republic of Nigeria 1999**

The constitution is the Matrix of all statutes. By section 1(1) of the constitution, it has ‘binding force on all authorities and person throughout the Federal Republic of Nigeria. Section 1(3) provides that if any other law is inconsistent with the provision of the constitution, the constitution shall prevail. The provision of the constitution on the subject of education relate mainly to:

- The educational objective of ensuring that equal and adequate educational opportunities are available for all Nigerians at all level of education (section 18).
- The right of citizens to education and freedom of thought (section 38) and right to freedom from discrimination (section 42), among other right; and,
- The power of the Federal Government and State government to make laws on the subject of education, for the purposes of establishing educational institution (first schedule, part 11, section 4, item 27-30).

## **The Child Right Act 2003 (Cap 150)**

The Child Right Act “set child out the right or and responsibilities of a child in Nigeria and provide for a system of child justice administration, and the care and supervision of a child among other thing.

The Child Right Act is divided into 24 part with 278 sections and 11 schedule. The provision or sections relating to education are contained in six main sections, section 11, 15, 58, 76, 182 and 183. For instance if (d) which is one the right of dignity of the child provides that no child shall be “held in slavery while in the care of parent, legal guardian or school authority or any other person or authority having the care of the child. This implies that any person, teacher or parent of authority are reliable for tort or prosecution for any breach of this section.

Section 15 of the Child Right Act (according to Victor, 2014) provide for the ‘Right of a child to free compulsory and universal primary education is a clear reproduction of section 18,38, and 42 of constitution as well as section 2,3 and 4 of the Universal Basic Education Commission Act. Also section 15(5) of child Right Act provide that a female child who become pregnant while in school would be given opportunity to continue with her studies after delivering the child.

Section 58 of the same Act provide that where a child is not being properly educated in accordance with the provision of the law, the court may make an education supervision order for the child, provided the child is of compulsory school age and is not being properly educated. Also, management of health and safety of the child in the school should be given the prompt attention it deserves. According to David-West (2016) “in the first place, the students must be alive to go to school”. There is need for a well articulated plan, method, strategies or approaches that will be helpful in attaining the expected standard in the management of health and safety of the child in the school system. Thus, Mathis and Jackson (2006:473) identified three approaches which include:

**Organizational approach:** School ensure a well-designed and well-manage policy in schools to reduce causes of accidents and illness to staff and students in school.

**Engineering approach:** The design of work plans setting in the school, reviewing of facilities and infrastructure to meet new trend in education. Dilapidated school building that pose threats to staff safety and health be put in good condition and constant inspection of school facilities practice will be helpful to reduce risk of accident in workplace.

**Individual Approach:** Worker should be motivated and made to have safety training in line with academic standard as well as incentives.

In managing health and safety in the school and its working environment, Education Queensland (2014) stressed that proactive issues can be effectively handled by the implementation of simple and proactive processes. The school administrators are the central binding force in this regard. Afangideh (2013) argued that the principal, as the head of a secondary school should play active role in health and safety management and well-being of students and staff under his directives in the school.

## CONCLUSION

The school system exists and continues to exist for the sake of the students (learners) who constitute the largest population of the human resource. For effective operation of the education industry laws, rules and regulations are effectively applied to guide the behaviour of students and actions of school managements to achieve the desired educational goals aimed at learners' behavioural change. The educational management need to have sufficient knowledge to appropriately apply the education laws in line with the Child Right Act (CRA) embedded in the 1999 Nigerian constitution, so as to avoid unnecessary litigations from students. Attempt was made to define the concept of law, classification of law, purpose of law, characteristics of law, establishing legal rights of the students, breach of the law in educational institution, Child Right Act (CRA) as entrenched in the Nigerian constitution. It is a crime to deny a child of school age access to education by parents or guardians. Imprisonment also awaits school heads who charges high fees in public school to prevent timely child's involvement in school. Punishment need not to be more than crime committed. All the stakeholders to be guided within the confines of the law for the smooth running of the school system aim at the attainment of predetermined educational objective.

## Suggestions

- The administration of education law should guide both behaviour and actions of students and educational management for the smooth running of the school system;
- Educational administrators should respect the Child Right Act (CRA) as enshrined in the 1999 Nigerian constitution and ensure that every child of school age access school;
- Unscrupulous elements in the school system as school heads who indulges in hiking school fees thereby preventing the enrolment of students should be prosecuted and shown the way out of the school system by invoking the necessary sections of the constitution;
- Prescribed punishment to student by school leaders should be commensurate to the offence committed as to avoid unnecessary litigation;
- The management of the health and safety of students in the school system should be given the prompt attention it deserves by educational administrators so as to preserve and protect lives on campus for effective teaching and learning to take place.

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