



Principals' Application of Education Law in the Management of Secondary Schools in Rivers State

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ABSTRACT

The paper examined principals' Application of Education law in the management of secondary schools in Rivers State. Principals occupy the apex position in the organizational structure of the school. He is responsible for t major decisions and activities necessary for the achievement of the goals of the school, and as such adequate knowledge and application of education law is necessary to avoid educational problems. School laws cut across various divisions of laws such as: constitutional laws, tort laws, contracts or liability . Specifically, the school principal performs the following administrative duties: resources and programme planning and policy-making, provision and maintenance of funds and facilities, obtaining and development of staff personnel, improvement of instructional programmes, student personnel services and maintenance of effective interrelationship with the community and external agencies. Based on the findings, it was concluded that principals who understand or aware of education law mitigate most of the crises that would have resulted to legal actions. Hence, it was recommended that special courses on education law and schools management should be organized by the Ministry of education and State Secondary Education Board, on regular basis for principals of secondary schools in the state. This will improve their managerial skills and create fundamental understanding of the issues that will generate litigations

Keywords: Secondary schools, management, Education law, Principals

INTRODUCTION

Educational sector is guided by policies that ensure proper management of the school in term of staff, students' welfare, development and implementation of curriculum content, provision of proper guidance, school community relations, discipline and proper keeping of school records etc. The responsibilities of co-coordinating these activities form the basis for the appointment of school principals. However, the principals' ability to discharge these official duties effectively depends largely not only on understanding of organizational principles and ability to maximize resources but also on awareness of basic legal ingredients or interests that guides each administrative responsibility..

Educational law is an administrative orders, ethics, legislations, rules and regulations put in place by government and enforceable through judicial process to guide educational decisions. According to Peretomode (2002), educational law is a heterogeneous body of regulations which directly and indirectly affect the educational and administrative processes of the educational system. It is more than a mere collection of education edicts and regulations emanating from a state bureaucracy. Ogbonna (2008) viewed it as a complex body of regulations meant for the control of principals, teachers, students, parents, the community leaders, the government and all those who are stakeholders in the education enterprise. These laws are made to avoid litigations and administrative efficiency or probity.

In the view of Akpan (2008), principals occupy a unique position in the secondary education system hence becomes an agent who executes or transmits rules and regulations handed down by the employer. On this note, the main task is seen as interpretation of policies and execution of instructional programmes as it affects education process, personnel, funds, school plants, school-community relations, protection of

civil rights of teachers and students, parents and others in the education system. Each of these elements has their respective rules and regulations that principals need to be aware of to avoid violation of the processes that will lead to dismissal or litigations. As note by Nakpodia (2007) these chains of duties, activities and relationships are strictly guided by rules and regulations emanated from the State Ministry of Education, State Secondary Education Board, Constitution, Legislation, common laws and administrative/executive orders. All these provide direction to principals' management of schools under their control. But observations seen in the various activities embarked by the principals often indicated lack knowledge of the existing laws of engagement hence outright flouting of these rules in the administration of schools under them.

In the past, school-based problems were viewed as domestic and were, therefore, usually settled out of courts. Today, the situation is changing owing to the growing complexity of educational management, increasing politicization of education and the citizens' greater awareness of their constitutional, legal and fundamental human rights. Consequently, school principals are now being caught up and confronted with the legal implications of their jobs. Furthermore, the in-loco parentis' maxim has endowed principals with more statutory responsibilities, by making them answerable to the parents of the students, to their employers and to the society, especially where their negligent or conduct results to student injury; disability or death (Arop, 2009).

Principals' Application of Education Law and Students' Personnel Management

School has social and constitutional responsibilities of educating its citizenry and protecting its clientele (learners) from the abuse of their rights and privileges. Students' personnel management constitutes various administrative activities and services that enhance wholesome development of the learners. The importance of adequate students' personnel services cannot be overemphasized as students are currently threatened and challenged by monster of cultism, drug addiction, militancy and general restiveness (Arop, 2009).

Students' personnel administration involves rendering those services which affect positively the welfare of the students. Obi (1998) opined that if students' services are not provided for and not adequately supervised; their effects may have disastrous consequences on the educational programmes. The school with its formal setting intentionally transmits the children into adults worthwhile in a normally acceptable manner. To achieve this, Jackson (1991) stated that schools generally have rules and regulations established to maintain discipline, justice for its members, legal rights of the individual and punish for legal wrongs.

Every school administrator is empowered therefore by the school organization to make decisions guided by the established rules and regulations derived from the law .The administrator also has legal power to make decisions within a specific area of responsibility. Students have rights by virtue of their status worthy of equal protection (Olu-Aderoumu and Adeboyeje, 2015). As such students can seek redress based on section 32-42 of the 1999 Constitution of the Federal Republic of Nigeria that enshrined the fundamental rights of the citizens. These rights include: rights to life, right to dignity of human person, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, conscience and religion, right to freedom of expression and the press, right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination. Some of these rights have been established as in the case of *Tinker V Des Moines* (1969), the Supreme Court ruled that students wearing black arm bands to protest the Vietnam War could not be forced to remove the arm bands by school officials based on freedom of expression.

Nwagwu (2007) inferred that interest in fundamental rights stems from the fact that they determine the constitutionality or legality of all laws, rules and regulations that fortified administrative processes and procedures of the school system. Thus, the principals have to operate within the boundary of the established law. For instance, in the case of *West Virginia State Board of Education V Barnette* (1943), the supreme court ruled that students could not be forced to recite the pledge of Allegiance nor otherwise salute the flag against their will .

One of the major administrative roles of the principal is to manage students' personnel matters. This managerial role includes all those services in the school that affects the welfare of the students. In the

view of Akpan (2013), a good plan of action for management of students personnel services include: admission and registration, classification and grouping of students for instruction, participation in school management, guidance and counseling services, students' disciplinary procedures, school health services and accommodation/food services. Every school has a set of rules and regulations to guide students toward good conduct and behaviour in order to maintain general discipline, peace and order necessary for effective teaching and learning. Like government policies and rules or delegated legislation, school rules and regulations carry the force of law if they are reasonable and educational process. As Alexander (2008) rightly pointed out, where school rules and regulations have been unreasonable, vague, arbitrary or direct violation of constitutional rights of freedom, the court will impose limitations or declare them null and void and of no effect in order to protect the students.

Management of the educational system has to be backed up with full awareness of the educational law. This is because the law protects and equity must impose obligations for non performance of expected duties or where the form of law is too technical to accommodate nature justice and conscience remedy must be sought for. In *Badejo vs. The Federal Ministry of Education* (2009), the Court held that special admissions programme on quota system into the unity schools conflicts with the right to freedom from discrimination. This implies that where there is wrong there are remedies to ameliorate the feeling of the plaintiff. Thus, the responsibilities of the principals are always placed on the values of educational law.

Principals' Application of Education Law and Staff Personnel Management

The roles of principals in the management of the school system remain very strategic and fundamental for the achievement of the pre-determined goals and objectives. For instance, the principal as the administrative head often make pertinent decisions as it affects day-to-day activities the school system. In spite of the multifarious roles of the principals, staff personnel management has become inevitable with the intent that individual has their legal rights to be guided and protected.

The principal plays strategic roles hence seen as web of instructional interrelationships. In matters of affecting staff, the principal is vested with the following powers:

- To discuss with an affected staff his fault or shortcomings and orally advise him to improve;
- To issue formal queries to staff that are guilty of misconduct and forward copies of such queries together with answers thereto, including his comments to the Ministry and the School Board for necessary action;
- To advise or warn a defaulting staff in writing if the latter persists in defaults, and endorse copies of same to the Ministry and the schools Board respectively and
- To recommend the suspension or dismissal (depending on the gravity or frequency of the offence) of any staff guilty of misconduct to the Ministry and the Board for appropriate action. On no account should a principal or head teacher on his own decide to suspend or dismiss a staff; professional misconducts are normally referred to the appropriate body usually the State School Board or Teachers Disciplinary Committee to handle;

Conduct in respect of the staff or children in an institution which is disgraceful and dishonorable

Conduct prejudicial to the maintenance of order and discipline in an institution

Professional misconduct according to Peretomode (2002) may attract both administrative and legal consequences for the offender, depending on the type, nature or gravity of the offence. The author stated that, administratively, there are a number of disciplinary measures that can be taken against a teacher for violating any article of the code of conduct. These punishment ranges from personal dialogue or caution from the school head to dismissal by the appropriate Schools Board. In all cases, it is assumed that the teacher shall be given fair hearing.

Ekott (2002) viewed management of staff personnel as the functions and activities of recruitment and employment, orientation, training and management development, supervision and appraisal wage and salary administration health and safety, benefits and services, union management relations and personnel research. Nakpodia (2011) asserted that there are certain elements requisite to the validity of all contracts, Reuter and Hamilton (2009) have identified five essential requirements as (i) mutual assent (i.e. offer and acceptance); (ii) consideration; (iii) legally competent parties; (iv) subject matter not prohibited by law; (v) agreement in form required by law. This scholar pointed out that in any contract where one of the essential features of a valid contract is missing, it may either be void, voidable or unenforceable.

Education Board is the agency responsible for employment of teachers based on the law of contract. In legal terms, contract may be defined as a legally binding agreement between at least two parties imposing rights and obligations on the parties which will be enforced by the courts. Rogers (2009) observed that the essential part of a contract is the idea of enforcing certain promises. Once a valid contract has been made, there are certain rights, duties and obligations on the side of both parties, i.e. the employer (Master) and the employee (servant) depending on the terms of the contract. Employer may terminate the contract of service by notice (reasonable notice), summarily dismissal unless employee has committed a wrong which constitutes a total breach of his contract. For instance, In *Joseph Okoroafor Vs. Imo State Education Board and Mrs. C. B. Nwosu, Principal, Girls' Secondary School, Ogbaku*, the plaintiff worked as a casual labourer in the defendant's school Ogbaku, the plaintiff and other applicants were referred to and selected by a domestic organization and recommended to the principal who would in turn make formal presentation of the successful applicants to the 1st defendant, the Imo State Schools Board, for possible employment. After working for a period of eighteen months, he was stopped as the Schools Board gave employment papers to five of the men. Three others including the plaintiff were not successful. The plaintiff then brought an action against the defendants for: (a) eleven months' pay (b) one month's pay in lieu of notice and (c) general damages for wrongful dismissal. The court stated that for a contract to be valid in law there must have been a definite offer by the offeror and a definite acceptance by the offeree. In this case, the court, nothing which could be described as a service agreement was tendered. In such circumstances, the judge does not see any basis for allowing of claims for one month's pay in lieu of notice, for wrongful dismissal and for salary until judgment is delivered.

Teachers have constitutional rights and benefits provided by law. Closely related to these constitutional rights are those of privileges and benefits available to a teacher by virtue of belonging to the organization. Such privileges or benefits as contained in the Handbook on the Federal Ministry of Education (1990) include: salary advance, car loan, leave grants, promotion, House rent allowance, Transport allowance, disturbance allowance, Housing loan, sick, maternity and study leave, medical care, salary increment etc. Followed by the rights are obligations or commitments

Obemeate (2004) submitted that principals spend a large portion of their time talking to teachers, non-teaching staff, students, Ministry and Board Officials, dictating letters, participating in meetings, consulting with parents and other community people, providing news releases, preparing reports and soon. In support of this, Dulewicz and Higgs (2009) posited that, principals in administering the school always ensure that good communication is effectively carried out to enhance discipline, maintenance of law and order. That is why in *Awunor Vs. The Teaching Service Board and others*, the Court ruled that the defendants had failed to comply with terms that established the Teaching Service Board, in that the plaintiff was not given a fair hearing.

Principals' Application of Education Law and Curriculum Implementation

Ughamadu (2006) defined curriculum as everything that goes on within the school, including extra class activities, guidance and interpersonal relations. To *Okobiah (2009)* curriculum is what an individual learner experience as a result of schooling. *Ekpo (2009)* viewed curriculum to be an instrument by which schools seek to translate the hopes of the society into concrete reality. According to *Mbipom (2009)*, some principals neglect the great task of supervision of instruction and hide behind other managerial roles. In *Grooms vs. Marlboro County School District (2002)*, school officials permitted a 15-year old with cognitive, emotional and behavioural problems to leave his classroom unescorted and got into a fight in the hall and the boy suffered severe head injuries. The parents brought suit against the school district alleging negligent supervision. The court reasoned that the school's policy of allowing the student whose judgment was impaired by the disability, to simply leave the classroom unescorted may have constituted gross negligence.

A principal who fails to provide for an adequate arrangement for the supervision of the school's activities e.g. morning assembly, closing, extracurricular activities and so forth, may be held liable for tort of negligence if tragedy occurs. For example, in *Omafidon and others Vs. Edugun and others*, both parties were students of Okhugihe Grammar School in Bendel State. There occurred a free-for-all fight between the form V boys and girls concerning the control of certain school activities. The fight took place on the

school premises after school. The girls trooped to the police station, Abudu, and the boys were arrested and charged for assault and battery. Until the principal was invited to give evidence, he had no knowledge of the incident even though he lived on the premises. This case typified lack of 'high duty of care' (supervision) on the part of the principal (Nwagwu, 2005).

In the instance of National concord of Wednesday, November 8, 1989, the front page caption 'Pupil 13, guns down classmate'. The report as compiled by Lame Sorunke has it that a tragedy struck at a primary school at Erin Village in Ogun State when a 13-year old primary four pupil shot dead his classmate, one Murtala Musibau. The deceased was said to have been involved in a hot argument over an undisclosed issue with the other pupil when the incident happened. It was said that the local gun used in committing the crime belonged to a class teacher who used it for hunting expedition after school and was kept at a corner in the classroom. This incidence constituted supervision negligent on the side of the principals and was held responsible.

Principals' Application of Education Law and School Funds Management

In every educational institution, funds are required to meet both capital and recurrent expenditure. Instance of this, is erection of buildings (classrooms, laboratories, libraries and offices), provision of necessary facilities and equipment, purchase of materials for maintenance and repair works, payment of staff salaries and allowances etc`. Indeed, no educational programme can be effectively executed without adequate funds. *Ukeje (2008)* indicated that it is one thing to make funds available for educational programmes and yet another thing to ensure that the money is judiciously spent. This assertion was further confirmed by Ekpo (2005) who inferred that principals who show prudence and transparency in financial management of fiscal resources do not have elements of mistrust among their teachers. Nkang (2002) observed that some school principals fail in their duties to most efficiently manage the school financial resources at their disposal mainly because of some deficiencies in the skill and knowledge of basic budgeting and accounting techniques. Thus, fund management as a sole responsibility of the school head calls for prioritization of activities to allow for prudent expenditure.

The principal is answerable to the school Board for the finance of the school, though in a large school, bursars or account clerks are held accountable. Peretomode (2002) outlined the financial responsibilities of principals as contained in Imo State Education Edict No. 10 (1989) include to:

- Collect any approved revenue payable at the schools or institutions on behalf of the appropriate board, and to pay the money collected into Board account.
- Submit the annual budget and financial statement of the school to the zonal education board.
- keep accurate record of all monies received and finds allocated to the school.
- to have a bursar who shall be responsible to the principal.
- disburse the imprest account and render account thereof to the Board.

The same -Edict listed misappropriation of schools' funds as one of the professional misconducts which attract both administrative and legal consequences. In *Bendel State Teaching Service Commission vs. Solomon Emuekor*, the school bursar pleaded two-count charge against the accused. The first count charges him with conspiracy and the second count for stealing. The accused denied stealing the money and alleged that he was robbed. The case was transferred to State CID where Sgt. Ebogbedi took up the investigation and alleged the accused made a confessional statement but the defendant alleged the so-call statement was obtained under duress. The Sergeant discharges the accused under section 286 of the CPL on each of the counts, as there was no evidence that the accused stole the money. In another twisted ease (*Commissioner of Police Vs. Leonidas Obosidom and others*), the school principal was arrested along with others including his accounts clerk for alleged conspiracy and stealing (fraud) of money by impersonating names of workers in the school vouchers. The principal was held liable.

Principals' Application of Education Law and School Plant Management

School plant management is an integral part of the overall management of the school. The primary purpose of the teaching and learning process is to bring about desirable change in behavior through critical thinking. This process does not take place in a vacuum but rather in an environment structured to

facilitate learning. The right atmosphere required for effective learning reflects on comfortable school buildings and teaching facilities. Ogunsaju (2008) maintained that the quality of education received bears direct relevance to the availability or lack of physical facilities in which learning takes place.

The school plants consist of all types of buildings and equipment for academic and non-academic activities, sports and games, landscape, farms and gardens including trees, road and paths. Others include: furniture and toilet facilities, lighting, acoustics, storage facilities and packing lodge, security, transportation, ICT devices, cleaning materials, food services and special facilities for the physically challenged persons (Asiabaka, 2008). Teaching and learning finds physical expression in construction and arrangement of the school plant available for the students. This depicts that school plant facilities give meaning to the planned curricula and extra-curricular activities. For Knezevich in Asiabaka (2008) observed that school facilities play pivotal role in the actualization of the educational goals and objectives by satisfying the physical and emotional needs of the staff and students of the school. The author emphasized that the physical needs are met through provision of safe structure, adequate sanitary facilities, a balanced visual environment, appropriate thermal environment and sufficient shelter space for work and play. Emotional needs are met by creating pleasant surroundings, a friendly atmosphere and an inspiring environment.

Thus, a school may be held liable for accidents arising from defective school buildings. For instance, a student is in a boarding house in a secondary school, while sleeping at night he was injured by a large piece of ceiling which fell from above. In the absence of any other evidence, the court may infer that the harm resulted from the school's negligence in allowing the ceiling to become defective. An instance of this is the case of *Andrews vs. Greenville Schools* (1975) which the courts hold school personnel liable for a defective building that injure students. On the day of the accident, Andrews J. 14, a Junior high school student was sitting close to the window in his class receiving lessons. Soon, the bell rang for recess, Andrews and other class members began to run to the door. The plaintiff sued and the school was held liable for negligent allowing defective louvres. The court reasoned that had it repaired the louvers, the student wouldn't have been injured.

It is in this direction that Barrell and Partmngton (1985) advised teachers and school heads to report immediately any defect in buildings or equipment which may give rise to an accident to the responsible authority. Once a case of defect is reported, reasonable steps should be taken by the school authority to prevent any use of that facility which might lead to a mishap.

CONCLUSION

It was therefore concluded that principals who understand or aware of education law mitigate most of the crises that would have resulted to legal actions. Thus, as education law and principle has become a binding factor in the management of the school system, the principals have to be more acquainted with implications so that there will be no loopholes for contravening the processes and procedures.

RECOMMENDATIONS

Special courses on education law and schools management should be organized by the Ministry of education and State Secondary Education Board, on regular basis for principals of secondary schools in the state. This will improve their managerial skills and create fundamental understanding of the issues that will generate litigations.

REFERENCES

- Akpan, D. G., (2008). Principals' Human Relations and Administrative Goal Achievement in River State Secondary School. *An Unpublished M.Ed. Thesis*. University of Uyo, Uyo.
- Akpan, R. J., (2013). Theories and Practices in Educational Administration. Uyo: MEF (Nig.) Ltd.
- Arop, F. O. (2009). An Evaluation of Human Rights Violation in Students' Personnel Administration in Secondary Schools in Cross River State, Nigeria. *Unpunished Ph.D Dissertation*. University of Calabar, Calabar.
- Asiabaka, I. P., (2008). *The Need for Effective Facility Management in Schools in Nigeria*. New York Science Journal, 1 (2): 10-21.

- Bartell, G. R. & Partington, J., (1985). *Teachers and the Law*. Great Britain: Methuen and Co.
- Dulewicz, V. & Higgs, M., (2009). The Seven Dimension of Emotional Intelligence. *People Management*, 28 (1):53-55.
- Ekpo, A. I., (2005). Principals Managerial Effectiveness and Teachers Work Performance in River State Secondary Schools. *An Unpublished M. Ed. Thesis*, University of Uyo, Uyo.
- Mbipom, G. (2009). *Educational Administration and Planning*. Calabar: University of Calabar Press.
- Nakpodia, E. D., (2007). *Education Law*. Warn: Jonokase Nig., Co.
- Nakpodia, E. D., (2011). Analysis of Cases of Violation of Students' Rights in Delta State Secondary Schools, Nigeria. *Prime Research on Education (PRE)*, 1(3): 50-59.
- Nkang, I. E., (2002). *Fundamentals of Educational Administration, Planning and Supervision*. Uyo: Afahaide & Bros Printing and Publishing Co.
- Nwagwu N. A., (2007). *Primary School Administration*. Lagos Macmillan Nigerian Publishers.
- Obemeata, J., (2004). *Secondary School Leadership in the Nigerian Context*. In: Adesina, S. and Ogunaju, S. (Eds.), *Secondary Education in Nigeria*, Ile-Ife: University of Ife Press.
- Obi, B., (1998). *Educational Management: Theory and Practice*. Enugu: Jamoe Enterprise.
- Ogbonna, R. N., (2008). *Basic Text in Educational Management*. Owerri: Chinas Hap.
- Ogunsaju, S. (2008). *Some Aspects of School Management*. Ibadan.
- Okobiah, Q. S., (2009). *Curriculum and Global Challenges: A Keynote Address Delivered at the 22nd Conference of Curriculum Organization of Nigeria*, Held at Delta State University, Abraka, 16th-19th September, 2009.
- Olu-Aderounmo, W. O & Adeboyeje R. A., (2015) .*The Law of Public Education in Nigeria*. Ado-Ekiti :Softway Publishers
- Peretornode, V. F., (2002) *Introduction to the Teaching Profession*. Owerri: Totan Publishers Limited.