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## Post Covid-19 Capacity Enhancement Management Training and Development

*for personnel of*  
**NEPA STAFF SCHOOL,  
AFAM POWER PLC**

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# UNDERSTANDING THE LAW IN SCHOOL SETTINGS



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## INTRODUCTION

- For any institution, organization, transaction or relationship in any nation to be legitimate, it must be permissible under the law. Where the law forbids an action or institution those who engage in it are liable to being punished.
- **Section 22 of the Criminal Code Act of Nigeria** states that “Ignorance of the Law excuses no man”. A school is a place where knowledge is framed, developed and transferred.
- A lot of schools have been shut down due to the ignorance of legal requirements, some teachers have trampled on the rights of students by sheer ignorance while a lot of students have had their careers truncated because they did not know or advert their mins to the legal consequences of their actions.
- Globally, education is primarily a matter of law. Article 26 of the Universal Declaration of Human Rights (UDHR) 1948 establishes the Right to Education for everyone. Other International legal instruments, national constitutions and statutes regulate the establishment, structure, management, staffing, candidates, curriculum, policies, accreditation and quality of educational institutions such as primary, secondary, tertiary and other categories of schools in the public and private sector.

## OUTCOMES

At the end of this paper, participants will have general introduction to law, the law as it relates to the establishment and operation of schools, rights and duties of school authorities, rights and duties of teachers and; rights and duties of students among others.

## WHAT IS LAW?



There is no hard and fast definition of law. Thus law is often defined depending on the philosophical perspective of scholars and jurists. It can be defined as a body of rules which are made, recognized or used to establish systems and to regulate the conduct of affairs in any given society. Without bothering with the niceties of definitions, a working knowledge of some of the functions of law will help one to understand law better.

## FUNCTIONS OF LAW

- Law establishes or creates **systems, unions, offices, nations** or international entities.
- Law sets and defines what **powers are exercisable** by the various arms or levels of government and the limits.
- Law sets out the **rights and duties of citizens**.

- Law defines conducts that are crimes and the punishment for such.
- Law regulates the contractual relationships of individuals in the society with one another.
- Law prescribes the remedies for the violation of rights in society.
- Law is also used to change old laws by way of repeals, modifications or amendments.
- Law is used to determine the level of relationship between nations.
- Law prescribes conditions for setting up institutions, businesses, marriage, adopting children, advertising goods, recovering goods, recovering premises, inheriting properties, sharing properties among others.

### **CLASSIFICATIONS OF LAW**

There is no generally accepted classification of law. Many scholars have tried to classify or put law into various categories based on the purpose of the law and in order to differentiate one class of law from another. Some of the common classifications are listed below for discussion purposes:

- Private and Public Law
- Civil law and Criminal Law
- Substantive and Procedural Law
- Municipal Law and International Law
- Civil Law and Common Law
- Customary Law and Non- Customary Law.

### **SOURCES OF NIGERIAN LAW**

The notable sources of law operating in Nigeria are:

- The Constitution of the Federal Republic of Nigeria, 1999 (As amended). This is the fundamental law that is superior to all other sources of law.
- Legislation (Comprising of Acts of the National Assembly, Laws passed by States Houses of Assembly).
- Case Law: Decisions of superior courts over topical cases and issues, especially where there are no express statutory decisions have come to stay as a strong source of law.
- English Law
- Nigerian Customary law and Sharia law
- Juristic Opinion
- International law

### **KEY LAWS IN NIGERIA**

- |                   |                      |
|-------------------|----------------------|
| • Criminal Law    | • Family Law         |
| • Law of Contract | • Revenue Law        |
| • Law of Torts    | • Maritime Law       |
| • Agency Law      | • Aviation Law       |
| • Insurance Law   | • Law of Evidence    |
| • Land Law        | • International Law  |
| • Company Law     | • Constitutional Law |

### **THE CONSTITUTION AS THE FUNDAMENTAL LAW**

- Constitution is defined as the fundamental and organic law of a nation or state, establishing the conception, character, and organization of its government, as well

as prescribing the extent of its sovereign power and the manner of its exercise. The Constitution of the Federal Republic of Nigeria 1999 (as amended) is the number one Law in Nigeria. It is thus known as the grundnorm being the Supreme Law of the Land.

- The Supremacy of the Constitution is stated in Section 1(1) of the Constitution. According to the said provision, the Constitution is supreme and binding on every person in the Country. Section 1(3) on the other hand goes a step further to state that any law that is inconsistent with the provisions of the Constitution is null and void to the extent of its inconsistency.
- In Nigeria, citizens enjoy many rights but the fundamental rights of citizens are protected by the Constitution of the Federal Republic of Nigeria.

**Chapter IV of the Constitution lists out the Fundamental Rights enjoyed by citizens of the country as follows:**

- The Right to Life -Section 33
- The Right to Dignity of Human Person – Section 34
- Right to Personal Liberty – Section 35
- Right to Fair Hearing – Section 36
- Right to Private and Family Life – Section 37
- Right to Freedom of Thought, Conscience and Religion – Section 38
- Right to Freedom of Expression at the Press - Section 39
- Right to Peaceful Assembly and Association – Section 40
- Right to Freedom of Movement – Section 41
- Right to Freedom from Discrimination – Section 42.
- Right to Acquire and Own Immovable Property anywhere in Nigeria – Section 43

## **THE LAW AND THE SCHOOL SYSTEM**

- The Education (National Minimum Standards and Establishment of Institutions) Act makes provision for the establishment, administration and inspection of institutions in Nigeria. Section 22 of the Act makes provision for the closing down of an institution where the requirements of the law are not met. The National University Commission also provides guidelines for establishing higher academic institutions of learning in Nigeria. Section 19A of the Guidelines for Establishing Institutions of Higher Education in Nigeria provide to the effect that an institution of higher education may be sponsored or owned by the government of the Federation or of a state or Local Government or by any of the following that is:-
  - By a company incorporated in Nigeria: or
  - By an individual or association of individuals who are citizens of Nigeria, and who satisfy the criteria set out in the Act for establishment of institutions.

**The Guidelines further state that Application for establishment of an institution of higher education shall be made to the Minister:-**

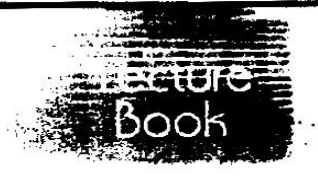
- In case of a university, through the National Universities Commission
- In the case of a polytechnic or College of Agriculture, through the National Board for Technical Education.
- In the case of a college of Education, through the National Commission for Colleges of Education.



- In any other case, through the Director-General of the Federal Ministry of Education, in accordance with the guidelines prescribed for making the application. Education is in the concurrent legislative list of Nigeria, thus both, the Federal and state governments can make laws thereon; except that the State laws must not conflict with national laws.

## PROCEDURE FOR REGISTRATION OF PRIVATE SCHOOLS

- The Nigerian law makes running a private school a full business. The steps for registration of a school include:
  - Registration with the Corporate Affairs Commission
  - Proceed to the corporate affairs commission (CAC) and register the school name.
  - Since it is a private school, the name should not contain 'state', 'government' and 'national' including the rest of the terms.
  - The school name should be a memorable name that is not difficult for people to remember and is suitable and useful for reference.
  - Check for availability of the school name online. This will help in making a school website. Online school activities trends now and many schools print results online. Getting a school website will help in adverts and keep the school on track.
  - Get a form from CAC and the business name will be put under reservation and availability. This process takes 2 weeks and the fee is about Five Hundred Naira.
  - If there is availability of the name after 2 weeks, an approval will be obtained. However, if the name is no longer available, suggestions will be given and another fee will be charged.
  - Upon receipt of approval, a registration form will be issued for the following to be filled:
    - The business name (the school name)
    - The names of the business owners
    - Address of the business owners
    - 2 passports of the business owners and the business nature.
  - Submission of the registration form goes with a fee of about Four Thousand Naira only.
  - A certificate of registration will be issued.
  - **Registration with the Ministry of Education**
- A letter including the school name is to be written to the Ministry of Education of the state where the school situates.
- **Inspection of site**  
The Ministry of Education will bring some inspection officers and this is after the first registration. The toilet, classrooms and the administrative blocks will be inspected. After the inspection, an approval form worth Twenty-Five Thousand Naira will be paid.
- **Second inspection**  
Another team will come to the school to inspect the curriculum, textbooks and other items after the submission of the approval form. If this stage is successful, the school becomes Government approved. *Above contributions on private schools registration is distilled from the work of fiokobong Ibangá available at [infoguidenigeria.com](http://infoguidenigeria.com).*



## **ACCREDITATION PROCESSES OF AN INSTITUTION**

The Federal Ministry of Education outlines stages for accreditation process of an institution as follows:

1. The proprietor or proprietress of the new school applies to the State Government. On payment of an application fee, a form is issued alongside a copy of the minimum standards for the establishment of schools.
2.
  - (i) The state authorities inspect the site;
  - (ii) If what is on ground is consistent with the guidelines, a provisional approval is given;
  - (iii) Where it is not consistent, the proprietor is advised to comply with or stop further development. Based on this, he/she can later ask for re-inspection.

Three years after the establishment of the school, officials of the Federal Ministry of Education carry out Recognition Inspection of the school. A letter of approval is then issued if the school meets all the guidelines. Subsequently, regular visits are to be conducted to the school. School accreditation is a type of school self-evaluation, a systematic and comprehensive evaluation to look out for areas of strengths and weaknesses of the school.

In Nigeria, the aspect of school accreditation has not been fully developed. In cases where it is done, it may be once in about five years or more.

In such occasions a team of officials from the inspectorate division of the ministry of education, a few selected principals and some head teachers are made to visit and inspect the schools in line with the spelt out guidelines.

However, the reports of these panels rarely see the light of the day. If properly done, accreditation should bring about positive changes in a school system. Through accreditation, schools receive external mark of quality, teachers engage in more meaningful teaching, students' academic performance is raised and the whole system is overhauled.

With the introduction of school based management committee into the Nigerian school system, it is expected that the concept of school self-evaluation will be put into frequent practice.

## **FACTORS TO CONSIDER BEFORE SCHOOL REGISTRATION**

- The location of the school must be accessible and convenient
- The School building must have adequate space and proper ventilation.
- The school staff to be hired must have standard qualifications.
- Provisions must be made for standard learning, recreation and health facilities.
- The school should be promoted through advertisements on bill boards and via social media.

## **RIGHTS AND DUTIES OF SCHOOL AUTHORITIES, TEACHERS AND STUDENTS**

- Once a school is legally constituted a lot of rights and duties enure to the school authorities, the teachers, students, parents, community and other stakeholders. We will limit our focus to the school authorities, the teachers and the students.

## **RIGHTS OF SCHOOL AUTHORITIES**

- Right to prescribe admission requirements and school rules
- The school authority has the right to prescribe admission requirements to eligible students within the confines of the law. In **BRAY V LEE (1972) 337 F. Supp. 934**, the Court in USA stated that "admission standards and quotas favoring male and different standards to evaluate examination results to determine the admissibility of boys and girls to the Boston Latin Schools constituted a violation of the equal protection clause of the fourteenth Amendment which prohibited prejudicial disparities between all citizens. The court therefore permanently enjoined the school district from thereafter using a different standard to determine the admissibility of boys and girls, and was affirmatively ordered to use the same standard for admission of boys and girls to any school operated by the city of Boston, including the Boston Latin school.
- See the Nigerian case of **BADEJO V FEDERAL MINISTRY OF EDUCATION (1989) SCNJ 51** where issue of criteria for admission was examined.
- **Right to hire and fire staff of the School**

School Authorities have the right to hire and fire workers who do not adhere to the rules of the school and the law.

In the case of **OLOMON HARUNA V UNIVERSITY OF AGRICULTURE, MAKURDI & ORS (2004) LPELR-5899(CA)** here the appellant challenged his termination of employment due to his alleged involvement in student rampage within the school premises, the court held that such termination of employment was valid and legal only if it was done by the Governing Council of the School.

### **The right to discipline students**

School authorities reserve the right to also discipline students for misconduct provided the rule of law is observed at all times.

The US Supreme Court in **NGRAHAN V WRIGHT (1977) 430 U.S.651** amplified the point that reasonable physical discipline at school does not violate the constitution, however the court directed teachers and principals to be cautious and use restraint when deciding whether to administer corporal punishment and the school should consider the seriousness of the offence, the students attitude and the past behavior, age and physical condition of the student and availability of less severe but equally effective means of discipline.

- **The right to obtain school fees**

The school authority has the right to demand and obtain the payment of school fees from students.

In the recent case of **RAJAT VATS V. GOVERNMENT OF NCT OF DELHI & ANR**, the court explicitly stated that it was not inclined to interfere in the issue of school fees as the authorities had already taken cognizance of the issue and further the matter fell in the policy domain.



- **Right to graduate only eligible students**

School authorities have the right to graduate students that have met the full graduation requirements.

In the case of PATRICK MAGIT V. UNIVERSITY OF AGRICULTURE, MAKURDI & ORS (2004) LPELR-5899(CA), where a student met all academic requirements for the award of his Degree Certificate but was not issued the certificate by the School. It was alleged that the student's attitude was not fit and proper to be awarded Certificate. The court held that the senate of the school did no wrong in their decision because there was no element of maliciousness by members of the Senate.

## **THE DUTIES OF SCHOOL AUTHORITIES**

- **Duty to Prescribe Standards**

A school Authority has the responsibility of setting standards for the students, teachers and other sectors of the school. This can be in the form of a handbook, bye-laws or regulations.

Section 9(6) of the Teachers Code of Conduct Act 2013 empowers school authorities to make rules binding teachers who engage in professional misconduct, which are not inconsistent with the Act.

- **Duty to ensure accreditation of the school and the courses**

The School Authority must ensure that the school is accredited by the relevant authorities to run the respective courses and issue the advertised certificates

- **Duty to employ qualified staff**

It is the duty of school authorities to ensure that the staff employed are qualified in character and learning.

Where necessary, institutional certifications must be presented.

- **Duty to offer credible courses and use sound teaching methods**

A school must offer credible courses and ensure that effective teaching methods are used.

- **The duty to safely keep and accurately present records.**

The school authority must have a good record keeping system and it is prohibited from any act of forgery, alteration, falsification of records pertaining to student admission, registration, financial aid, conduct, academic, health records and educational certificates. Apart from administrative penalties like fines, closure of the school and other actions, the individuals involved can be charged with the crime of forgery.

See the case of SANEBI V. LAWRENCE & ORS (2018) LPELR-46111(CA)

## **RIGHTS OF TEACHERS**

- **Right to work in a safe and clean environment**

The law requires that both staff and students enjoy a safe and clean working environment. Thus the facilities must meet safety standards for premises as required by law to avoid attracting Occupiers Liability.

- **Right to be paid salary**

Teachers are entitled to payment of agreed salaries for work done.

- **Right to protection from abuse, harassment, sexual molestation and violence**

- **Right to administer discipline to students within the purview of the law**

The law in Nigeria is that teachers have the right to discipline pupils or students. This right includes the right to inflict corporal punishment which must be exercised with due diligence and care.

**Section 295(6) of the Criminal Code Act** is to the effect that such punishment must be reasonable, having regard to the age, physical and mental condition of the person on whom it is being inflicted. Such person to be corrected must also be capable of understanding the purpose of the punishment.

## **DUTIES OF TEACHERS**

- Duty to teach in line with the syllabus
- Duty to respect the rules of the school and the duties prescribed in the constitution of Nigeria
- Duty to be an example to students and to mentor them to comply with the rules of the school

## **RIGHTS OF STUDENTS**

- **Right to Admission when Qualified**

Students have the right to be admitted in schools where they have met all the admission requirements prescribed by the school. See **BADEJO V FED. MIN OF EDUCATION**.

**Article 26 of the Universal Declaration of Human Rights (UDHR) 1948** establishes the right to Education for everyone.

- **Right To Freedom Of Discrimination in School**

Section 42 of The Constitution of The Federal Republic Of Nigeria, 1999 (As Amended) protects students against any form of discrimination.

- **Right To Enjoy Good School Learning Facilities as paid for.**

- **Right to reasonable protection by school authorities**

A student is entitled to be protected from internal and external aggression or injury. In **Williams V. ady(1893) 10 TLR 41** a schoolboy was injured by an explosion of phosphorus contained in a bottle. The bottle was left by a schoolmaster in a place where school children had access to and which they found and played with, resulting in the explosion. While holding the schoolmaster liable, Lord sher M.R., held that the schoolmaster was bound to take such care of his boys as a careful father would take care of his boys, and there could not be a better definition of the duty of the schoolmaster.

- **Right to belong to or form Associations**

Section 40 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) guarantees the right to freedom of association to every person. Students are free to form, join and participate in groups or organizations that promote student interests within the limits of the law.

In *Inker V Des Moines Independent Community School District 89*. Cf 733 US 503 AT 506 the US supreme court decision was that the government has the power to prohibit lawless actions which materially and substantially disrupt the work and discipline of the school

## **DUTIES OF STUDENTS**

- Duties to respect school authorities, teachers and other students
- Duty to observe all the rules prescribed in the constitution of the country
- Duty to ensure school fees are paid, attend classes and comply with all academic requirements for graduation

## **CONCLUSION**

We cannot learn all the laws in one sitting, but with the introduction provided we will be in a position to do our part to avoid the wrath of the law. Always remember that ignorance of the law excuses no man.