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EDUCATION LAW IN NIGERIA: IMPERATIVE FOR FUNDAMENTAL RIGHTS PROVISION

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ABSTRACT

Every establishment has a mixture of people from varied family backgrounds, temperament, conceptions and understandings. The people could be hired to work together for common goal in their diverse differences. It becomes an uphill task to organize, harmonize and unify these people to a formidable team for goal attainment when there is no rule of law guiding the group. It is only in the face of outlined rules and regulations or code of conducts that these people of various vices could be unified and channeled towards goal attainment. This explains why it is imperative that every organization or rather sector of the economy must as a matter of necessity work under the orbit of law to prevent violation of the fundamental human right. Breach of fundamental human right could lead to chaos, anarchy and squabbles which dwindle peace and development. Educational institutions are not left out as schools which comprised educational institutions are merger of students, teachers and non-teachers from different family backgrounds, temperaments, reasoning and understanding it is only the rule of law that curtails some excesses and put people on their mark which is goal driven.

Keywords: Education law, Imperative, Fundamental rights and Provision.

Introduction

The school is an organization composed of human element from divergent ethnic groups, religions, cultures and behavioural patterns who have come together for the purpose of achieving educational objectives. These diverse inclinations could pose a barrier in achieving the common goal except there is law guiding the conduct of the members. Law is referred to a set of rules and regulations which is generally accepted to regulate the behavior of the members and any deviation from what the law stipulates is visited with punishment to deter others. When law is utilized in the operation of schools, it is referred to as education law.

According to Maduagwu and Nwogu (2014), Ofozoba, (2020), Ibe, (2019), Anushiem, (2017) and Ekwesianya, (2022), this, gave

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credibility to the above expositions thus declared that in as much as the school is people oriented, there is that tendency that in the administration cum operation of school system, people may knowingly or unknowingly offend one another in words or actions. When these flaws are not regulated through education law, it could lead to litigation. In his own part, Igwe (2005), Ugwaka, and Igbokwe (2020), Onyekwelu, (2024), and Ofozoba and Ofozoba, (2023) posited that education industry comprised one of the largest sub sectors of the Nigerian economy as it accommodates a large number of people from varied family status. The scholar maintains that this large number of people needed to have rules and regulations to guide and direct school activities and programmes as well as protect the rights of the members of the school community.

Stemming from the above discourse, education law and fundamental human rights are hands in gloves (Okaforcha and Okeke, 2019, Ojimba, 2020 & Iloka and Nwakoby, (2025). There is absolute need to expose the law as it relates to education to the school players so as enlighten them on what constitute breach of inalienable human right. This is what prompted Peretomode (2001), Anushiem, (2023), Okechukwu, (2025), Enwezor, and Obi, (2022), Ezeaku, (2025) Azubuike, (2024), Okeke, Okaforcha and Ekwesianya, (2019), Okaforcha, (2021), to advocate that the knowledge of the fundamental rights would enable the school community members (administrative cadre) to identify conditions that may justify any restriction, deprivation or withdrawal of these rights.

The concept of education law

Education law is that part of the law that bears relevance to education enterprise. It goes to state categorically the dos and don'ts in education activities and programmes. Onyekwelu, and Adinna, (2022), Anthony, (2019), Anushiem and Anushiem, (2023) and Abonyi, (2023) argued that educational law is made of rules and regulations guiding the school human factors which include the students, the teacher and non-teachers etc. According to Onyekwelu, (2021), Nwankwo, (2022), Azubuike, (2025), Ucheagwu-Okoye, (2021), Okoye, (2025) and Okeke (2018), education law refers to a set of regulations, ethics, principles that guide human conduct imposed upon and enforced for the main aim of achieving harmony in the educational system.

While lending their voices, Ekwesianya, Okaforcha and Okeke, (2020), Enwezor, (2021), Ojimba, (2024) and Madumere (2007) defined law as the body of rules or principles that binds together all the subjects within a given geographical location termed society or community among others. The scholar further stressed that education law involves all conducts or activities that govern educational practices. Iloka, (2025), Ethelmary, Nwankwo and Aroh, (2019),

Ezeaku (2019), Enwezor, and Chukwunonye, (2021) and Ugwaka and Igbokwe (2023) argued that educational practices include among others funding or educational financing, teaching and learning encounter, administration of discipline, students' personnel management, staff personnel services etc. Nwakoby, (2025), Nwakoby and Iloka, (2025) and Enwezor and Obi, (2022), averred that school law was being promulgated by the government who is the owner and sponsor of public schools which also extends to the private schools alike. Nwabachili, Iloka and Ucheagwu-Okoye, (2022), Osegbue, (2021); Ekwesianya, (2025), Ezeaku and Okoye, (2025), and Abonyi, (2020) opined the rules and regulations once made as a blue-print is binding to all involved in education industry. Going further, Igwe (2018) Ucheagwu-Okoye, (2025), Okaforcha and Okeke, (2025), Nneka Anthonia Obumse and Uju Egenti (2021), described school law as the range of rules and regulations governing the operation of school which school administration is among. In addition, the scholar averred those rules and regulations boarder on the following;

a) Students, subject
b) Teachers, administrators
c) Parents and school planning
d) Auxiliary staff
e) Funding, financing

In adherence to the education law, it is pertinent for the schools' workforce to be acquainted with the constitutional provisions and statutes governing the regulation and control of the establishment of educational institutions as well as be well knowledgeable with the inalienable rights of those they are working within the school system (Enwezor and Chukwunonye, 2022 & Ucheagwu-Okoye, 2025). Since these basic rights are enshrined in the constitution, Okaforcha and Iloka, (2025), Nwankwo and Okoye, (2022) Obumse, (2022), and Osegbue, (2022) stressed that it is wise that educational agents be more proactive thus examine their actions and inactions in relation to these rights to avoid breach of fundamental rights of those whom they work with which could be counter-productive.

Fundamental rights

Fundamental rights could also be referred to as the Bill of rights or civil rights or civil liberties. According to Stanley-Idum and Agaba (2022), Izuchukwu, Ugwaka, Arazu and Ezechi, (2023) and Abonyi, (2021), it is embodiments of liberties which the citizens of a country enjoy as a result of the protection they get therefrom against the government. the fundamental rights as provided for in sections 33-45 of chapter IV of the 1999 constitution include the right to:

1. Life
2. Dignity of human person
3. Personal liberty
4. Fair hearing
5. Private and family life
6. Freedom of thought, conscience and religion
7. Freedom of expression and the press

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8. Peaceful assembly and association
9. Freedom of movement
10. Freedom from discrimination
11. Acquire and own immovable property anywhere in Nigeria
12. Freedom from compulsory acquisition of moveable or immoveable property

These fundamental rights listed above are actionable in the law court of competent jurisdiction. Education law pertains to only items 1-10 which would be further excavated.

Relevance of education law to the students

Education law is quintessential to the students as it protects their fundamental human rights. According to Enwezor, (2021), Okechukwu, (2025), Okeke, (2022) and Okeke and Okaforcha, (2025), the following are the relevance of education law to students;

1. Teachers and other school workers are aware of the legal issues facing them to avoid being taking unaware. This allows them to take precaution in dealing with the students to prevent litigation.
2. It enables the teachers and other educational workers to be aware of their rights and limitations as well as legal implications of what they do regarding their students and parents concerning educational related matters.
3. Enables the students know their rights and legal implications of their actions and inactions among themselves as well as the school authorities.
4. School law helps to maintain orderliness and progress in the school system.

Protection and violation of the fundamental rights in education system

The fundamental rights protect every Nigerian citizen as well define what it takes to violate the inalienable human right as stipulated in the 1999 constitution of the Federal Republic of Nigeria with amendments, (2011) was summarized as follows;

Section 33(1): Every person has the right to life, and no one can be intentionally killed except by court order for a crime for which they've been found guilty.

Section 33(2) of the Nigerian Constitution states that a person's death isn't considered a deprivation of life if it occurs due to reasonably necessary force used in specific situations, such as:

- Defending a person or property
- Making a lawful arrest or preventing escape
- Suppressing a riot, insurrection, or mutiny

Section 34 of the Nigerian Constitution protects the right to dignity, prohibiting:

- Torture and inhuman treatment
- Slavery and servitude
- Forced labor

Exceptions to forced labor include:

- Court-ordered labor
- Military or police duties

- Emergency situations threatening the community's life or well-being.

Section 35 of the Nigerian Constitution guarantees personal liberty, stating that no person shall be deprived of liberty except in specific circumstances, including:
- Court order execution
- Reasonable suspicion of committing an offence
- For education/welfare (minors)
- Preventing disease spread
- Care/treatment (insane/mentally ill)

Additionally, arrested/detained individuals have the right to:
- Remain silent
- Be informed of arrest/detention reasons
- Promptly receive charges in their language
- Defend themselves with a chosen legal practitioner
- Be kept in safe/humane conditions pending case determination.

Section 36 of the Nigerian Constitution ensures fair hearing and protects individual rights. Key points include:
- Right to fair hearing within a reasonable time
- Independence and impartiality of courts/tribunals
- Protection from unfair laws
- Public proceedings
- Right to self-defense or through a chosen legal practitioner
- Presumption of innocence until proven guilty

These provisions safeguard individual rights, ensure fairness, and promote justice.

Section 37 of the Nigerian Constitution protects citizens' privacy, including:
- Homes
- Correspondence
- Phone conversations
- Telegraphic communications

Section 38 of the Nigerian Constitution guarantees freedom of thought, conscience, and religion, allowing individuals to practice and propagate their beliefs, while also protecting students from forced religious instruction and permitting religious communities to provide instruction in their own schools. Section 38(4) of the Nigerian Constitution prohibits the formation, participation, or membership of secret societies.

Section 39 of the Nigerian Constitution guarantees freedom of expression, allowing individuals to hold opinions, receive and impart information without interference, own and operate media outlets, except for TV and radio broadcasting stations which require government authorization, and permits laws that regulate media in a democratic society.

Section 40 of the Nigerian Constitution guarantees every person's right to assemble freely, associate with others, form or join political parties, trade unions, or other associations to protect their interests, while

also respecting the Independent National Electoral Commission's powers regarding party recognition.

Section 41 of the Nigerian Constitution guarantees citizens the right to freedom of movement, allowing them to move and reside anywhere in Nigeria, while also permitting laws that reasonably restrict movement for purposes such as preventing crime, trial, or imprisonment, as long as they are justifiable in a democratic society.

Section 42 of the Nigerian Constitution ensures that no citizen is discriminated against or given unfair advantages based on their community, ethnicity, origin, sex, religion, or political views, promoting equality and fair treatment for all.

Section 43 of the Nigerian Constitution guarantees every citizen's right to acquire and own immovable property anywhere in Nigeria, subject to constitutional provisions.

Section 44 of the Nigerian Constitution protects citizens' property rights by prohibiting compulsory acquisition of property without prompt compensation, as prescribed by law.

It is necessary to highlight disciplinary practices in school administration that could violate or infringe on the fundamental rights of the students. According to Ucheagwu-Okoye, (2025), Onyekwelu, (2024); Osegbue, and Nnubia, (2020), Adinna and Onyekwelu, (2021) Nonyem and Chimaa, (2020), and Anthony (2014), these practices are as follows:

a) It protects the students against corporal punishment or other forms of punishment that could lead to students' loss of life or that which causes permanent disfigurement. It also involves maintenance of attractive nuisance like unsafe playground or dangerous condition of the school premises that may cause death or serious injury to students
b) Wrong grooming practices such as shaving students' hair, cutting students' hair at the assembly ground or in the classroom.
c) In an attempt to enforce wearing of complete and correct school uniforms, the student is made to appear partially naked before other students.
d) The use of derogatory language on students in front of their fellow students.
e) Teacher's assault and battery (trespass) on the person of a student.
f) Stopping the student from writing examination duly registered by the student.
g) Detaining a student after school unnecessarily.
h) Punishing a student (suspension, expulsion etc.) without giving him a fair hearing.

i) Arbitrary searching of students' personal belongings like boxes, lockers, pockets and/or possible seizures.
j) Encouraging practices of a particular religion in the school and forcing all students to join irrespective of their various religions.
k) Punishing a student from expressing his opinions about a certain aspect of the school administration.
l) Forbidden students from forming or joining social clubs/societies of their choice within the school premises.
m) Excessive or unreasonable use of detention or false imprisonment in a school room or office as a way of meting out punishment to the student.
n) Refusing a student admission based on tribe, religion, political belief or cultural affiliation.

Conclusion

Education law is a body of rules and regulations governing the operation of school such that fundamental rights of the school workers are respected and not infringed upon. It gives clear awareness to the schools' workforce who stands in-loco-parents on their expectations and limitations when dealing with the students put under their care to prevent litigation. School law is meant to serve not just the school community members but also the parents and other school visitors as well. School law regulates and enables the school administrators to harness all the diverse people that make up the school community to work harmoniously towards achieving ultimately educational goals.

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