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**THE RUNNING OF LEGAL UNITS AND COPING WITH LEGAL  
ISSUES FOR THE EFFECTIVE ADMINISTRATION OF EDUCATIONAL  
INSTITUTIONS**

By

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**ABSTRACT**

The development of higher education in Nigeria started in the First half of the Twentieth century, with the establishment in Lagos in 1932 of the Yaba Higher College now Known as Yaba College of Technology and the Yaba Medical School, also established in Lagos, Nigeria in 1930.

The plea for University education was not given serious consideration until the middle of the 1940s. This was the University College of Ibadan, now known as the University of Ibadan. It was after this, that other higher educational institutions followed.

Educational institutions consist of officers, members of staff, both teaching and non teaching and students. In recent times, these institutions have been witnessing an increasing number of litigations on issues that affect the University in relation to its staff, students or the outside community. There is a general awareness by people and even these institutions about their rights and privileges and this has brought about a greater awareness to many higher institutions that if they are not to be dragged at random into fruitless and senseless litigation, there is the need for an establishment within the institution of a legal unit, headed by a senior and experience lawyer who can advice the principal officers from time to time on the proper procedure and steps to be followed on issues that may have legal implications.

This paper examines the importance of legal Units in the educational institutions, the functions of such units and consequence of the non existence in an Educational Institutions.



### Importance of Legal Units in Educational Institutions

In the management of the affairs of Educational Institutions and in regulating the conducts of members of staff and students, legal issues arise from time to time. Appointments of staff, cases of breach by either parties of these terms of appointment leading to dismissal or termination of appointments or other disciplinary cases involving staff and students are not without far reaching legal implications. A Prior Legal opinion by the Legal Units may forestall the authorities from taking illegal steps or prevent litigations in a court of law by ensuring that the provisions of the laws of the land are complied with.

The educational Institutions are established for many reasons and some of these include the advancement of learning and giving opportunity of acquiring education to persons. Facilities are made available for such purposes. This may therefore require the acquisition of property which involves conducting legal searches at the relevant ministries and bodies, negotiating, contracts re entered into, execution or signing of agreements and exchange of necessary documents are performed. These are legal issues and not administrative duties which have to be attended by a legal officer within the system which is conversant with such issues. The appropriate units to handle this is therefore the legal Unit.

The conduct of students who form part of the system and are the most important elements have to be regulated by the authorities. A unit known as the Student Affairs Section is usually created to deal with matters concerning them and rules and regulations are made to regulate their conducts. This aspect of their persons is important because before a degree is awarded in any University in Nigeria, the student must have satisfied the institution in both "Character and Learning". Students on being admitted into higher institutions in Nigeria are obliged to sign an undertaking to observe the statuses and regulations of the institution and obey constituted authorities. In making the regulations, care must be taken that all the laws of the land are observed and the rights of the students are not infringed upon. Nowadays students are very conscious of their rights and the appropriate authorities must be guided legally in making these regulations. Such rights include the right to freedom of expression in Section 36 of the 1979 Constitution,<sup>2</sup> right to private life in Section 34 and right to association in Section . Regulations

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<sup>1</sup>University of Ibadan: Student Information Hand Book 1995/96. Wemilore Press pg. 21.

<sup>2</sup> Cap. 62 1990 Laws of the Federation of Nigeria



that are against the law may become subjects of litigation in a court of law. As Chand says:

"In democracy, the individual is entitled to express his opinion on all matters and more especially, public matters as every public decision affects him in one way or the other way". Without expression, there is no social life at all because communication is the very essence of social life"<sup>3</sup>

The aforesaid is not to say that freedom of expression has no limitation <sup>4</sup> de Smith states

"The law does not concern itself with individual beliefs or disbeliefs unless of a person propagates his views in scurrilous terms or in circumstances likely to give rise to a breach of the peace or in a place to which he is denied access"<sup>5</sup>

#### In TINKER V DES MOINES INDEPENDENT SCHOOL DISTRICT<sup>6</sup>

The Supreme Court held that the students had 1st amendment protection to express their feelings about vietnam war by wearing black arm-bands to school. This case should be compared with Seyfried V Walton <sup>7</sup> where the court held that the refusal of school officials to allow a student production because of its sexual themes did not violate students 1st amendment rights.

Students like ordinary citizens are entitled to enjoy their right to private life. This might however be curtailed by law, therefore it is not absolute. Where the authorities have cause to believe that this right is being abused, they may interfere to maintain discipline by enforcing the rules and regulations. In MORAL v GRIGEL<sup>8</sup> the court held that the search of a student's dormitory room without his consent for

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<sup>3</sup>Chand. H. Nigeria Constitutional Law. Modinaga India. Santosh Publishing House 1981. p.83.

<sup>4</sup> Section 36 (3) of the Constitution

<sup>5</sup>de Smith, S.A. Constitutional and Administrative Law 2nd d. Hammond Sworth, Middlesex, penquin Education 1973 at p, 474.

<sup>6</sup>399 U.S.Ct.733 (1969), 393 U.S. 503 (1969)

<sup>7</sup>50.U.S.L.W. 2439 (January 26 19982)

<sup>8</sup>45.U.S.L.W.2287 (Nov.9. 1976)



the purpose of locating stolen property violated his 4th amendment right of freedom from unreasonable search and seizure. This case should serve as a warning to wardens of Halls of residence, that they should seek legal opinions and advice from the Legal Units in their institutions on issues that may have Legal Implications.

Legal Units are important in the educational institutions because of the many disciplinary cases involving both students and members of staff that are handled by committees set up within the institutions. Under the University of Ibadan Act<sup>9</sup>, Section 10 gives the Vice-Chancellor the power to discipline students and in some cases such aggrieved students may appeal to council.<sup>10</sup> Students discipline is an internal and domestic matter which courts are reluctant to interfere with. Where however, the principles of law such as natural justice, *audi alteram partem*, fundamental human rights are not observed and decisions by the Institution are challenged in a court of law, such decision are set aside. At such committees, the Legal Officer of the institution who should be present will ensure that the principles of law are observed and fair hearing is given to the parties. This will reduce the number of decisions being challenged in court. In Awotude v Vice -Chancellor University of Ibadan<sup>11</sup> a female student of the University won her suit against the University on the ground that there was a breach of the principle of *audi alteram partem*, hence the expulsion was declared a nullity. This case was decided a year after the Legal Unit of this University was established in 1981.

In Akintemi & 2 or v professor G.A. Onwumenchile Vice- Chancellor University of Ife and another,<sup>12</sup> the suspension order of the University was quashed by the court and it was held to be a breach of the rule of natural justice. These cases might not have gone to the courts of law if legal opinion was sought or given by the Legal officer who should have been present. The above equally applies to

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<sup>9</sup> 1962

<sup>10</sup>See also Section 17, University of Calabar Act 1979  
Section 17 University of Ilorin Act 1979  
Section 17 University of Sokoto Act 1979  
Section 17 University of Nigeria Act 1979

<sup>11</sup> 82 3 OY S.H.C. 262 at 299

<sup>12</sup> 11 OY.S.H.C 457



disciplinary actions of members of staff who may be dismissed or have their appointment terminated unjustly or reprimanded without the due process of law being followed.

The existence of legal Units in Educational Institutions will save such institutions the embarrassment of having some of the decisions of its disciplinary bodies set aside by the courts for being null and void. This is because of the legal advice that will be available to the Authorities. This is illustrated in the case of Garuba and others v University of Maiduguri<sup>13</sup> where some students were disciplined by the school authorities for arson, looting and indecent assault. The presence of a Legal Officer at the panel that tried the students who brought this suit to court, would have saved the University the embarrassment of its decision being set aside. The Officer would have advised members that the Constitution of Nigeria has given the right to try all criminal cases to the court of law which has exclusive jurisdiction over such matters.

The issues of patents and copyrights are now coming up in the Educational Institutions, with improved technology which has brought about innovations and inventions by members of staff. This is a legal issues for the Legal Unit of the institution to look into as this will be beneficial to the University too.

The existence of a Legal Unit is now essential in all institutions of higher learning in Nigeria. Diversification into commercial ventures has become necessary for self sustainance because of inadequate funding from the Governments and the public. Many of the Institutions have consultancy units like Guest Houses and Restaurants, printing press and farm. The establishment of these interest result into increasing interaction with the outside commities on Legal issues.

Another importance of Legal Units in the Educational Institutions is that it reduces the very high cost of retaining outside Solicitors. The truth is that the services of experienced outside Solicitors will still be retained to handle major court appearance and other specialized jobs.

According to Ojo all these will help the Institutions' legal Officer to devote time to his job, act as a clearing house for the outside Solicitor and attend more to legal issues that are within the University to reduce litigations. At the same time, the

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<sup>13</sup>1986 1: N.W.L.R. 550



existence of a Legal Unit will help to beat down the fees of the outside Solicitor.

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The importance of Legal Units in the Nigerian institutions are numerous but a few have been highlighted. The Legal Units are headed by qualified and experienced lawyers known as Legal Officers. The functions of the Legal Officer in this unit may not be adequately defined in the law as they vary and continue to expand from day to day. This is true in modern times when Educational Institutions in Nigeria are increasingly engaging in other activities and interacting with the community at large. Some of the general functions are listed below:

In relations to court matters, the Legal Officer should liaise with the outside Solicitor, send all court summons received by the Institution to him, swear to oath on behalf of the Institution, sign affidavits, attend all court cases involving the Institution and ensure the attendance of witnesses, collate all relevant documents and facts for the outside Solicitor which may be required in any litigation and give immediate report to the Authorities before the arrival of the officer to have proper documentation of court judgements on issues affecting the Institution and the purchasing of such judgement is important for the study purpose of the institution.

Closely associated with the above is the function of keeping proper records and having in the Unit, all legal documents relevant to the Institution. A good system is very important to ensure safety and production of documents promptly when needed.

The function of providing legal advice by the unit cannot be over emphasized. The Unit should serve as linkage between other Units of the Institution and the outside Solicitor on litigation issues and give advice on official matters affecting the departments. the Legal Officer should be in attendance at certain committee meeting whose legal opinion may be sought or given. Such committees include the student/staff disciplinary committees as discussed above, the staff housing loan committee to scrutinise Legal documents submitted by applicants and to release legal documents after the compilation of the loan. The preparation and handling of registration of mortgage agreement by the unit is important for this particular committee.

Another function is in relation to drafting matters. The drafting of legal documents such as contract, mortgages, deeds, bonds, licenses to occupy property by persons, scrutinizing of documents submitted by persons before execution,

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<sup>14</sup> Ojo, J.D. Law and University Administration in Nigeria 1990. Malthouse Press Lagos p. 147



stamping and registration of legal deeds searchers in land registries in order to verify the status of title deeds are functions of the Legal Unit.

#### CONCLUSION

As rightly stated by Ojo, the time has come when each University and Educational Institution (emphasis mine) should have a Legal Unit which is well staffed, headed by senior and experience lawyers with attractive conditions of services and a well stocked reference library, with current books and journals.<sup>15</sup>

Authorities should be prepared to accept legal opinions with magnanimity. This will save Educational Institutions from fruitless and senseless litigations and embarrassment.

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<sup>15</sup> Ibid at p. 147