



EDUCATORS' DUTY OF CARE IN SECONDARY SCHOOLS IN RIVERS STATE, NIGERIA

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Abstract

This study is to find out the factors that leads to a failure to observe reasonable standard of care and ascertained the strategies that could be adopted to observe a reasonable standard of care in secondary schools in Rivers State. A descriptive survey research design was adopted. Two research questions were posed in line with the objectives of the study. The population of the study consisted of 7,820 teachers in the 532 public and approved secondary schools in Rivers State. A sample of 410 public and 390 private secondary school teachers were randomly drawn from 28 public and 22 private secondary schools in the State. The instrument for the study was a 16-item questionnaire addressing the research questions and eliciting ☐Yes☐ or ☐No☐ responses. Simple percentages and tables were used in analyzing the data obtained from the field. The study revealed among other things that non assessment of risk to safety of students by schools; staff engagement in sexual harassment of students; non provision of suitable and safe premises; inadequate system of supervision are factors that lead to a failure to observe a reasonable standard of care in secondary schools in Rivers State. Some of the recommendations were that government should establish safety, health and welfare legislation and common law duties of care that set down specific requirements for school owners and employees, Secondary school principals should ensure the provision of adequate system of supervision in order to identify risk factors and devise precautionary measures.

Key Words: Duty of Care, Secondary Schools, Physical Education, Laboratory Practices, Excursion, Rivers State.

Introduction

The Nigeria secondary schools are social institutions that provide full-time education for students between the ages of eleven or twelve and eighteen plus (Rowntree in Ogbonnaya, 2010). They consist of board members, administrators, academic and non-academic staff and students from diverse ethnic, cultural, religious, political and socio-economic segment of the

society. For the effective delivery of school services therefore, it is imperative that schools plan, organize and manage a safe and healthy environment for these categories of students. Schools are changing; responsibilities for safety and health management are being refocused. Safety is important and needs to be approached creatively and should not be seen as simply another legal burden or bureaucratic chore (RoSPA, 2012).

Safety is the state of being safe and protected from danger or harm (Homby, 2010). Everybody in the school has a role to play in ensuring good safety and health within the schools. Thus, the school is charged with the duty of informing staff, students and community members of their responsibilities for their safety and health. One of the ways for the school to perform this duty is to involve staff and students in identifying challenges to safety and health and in devising and implementing ways of responding to those challenges (Halloran & Fields, n.d). It is evident that the main causes of physical harm in schools are accidents such as slips, trips and falls, manual handling and contact with equipment. Hazards and risks are present in schools. The school as a unique environment is shared by students, to whom a high duty of care is owed because of their vulnerability (Abali & Nwokedi, 2016). Thus, ensuring the avoidance of risks in the school environment is an essential part of any school manager's responsibility and to do this successfully, a good duty of care system needs to be in place. Many of the accidents and incidents and cases of occupational ill-health in secondary schools are due to a failure to manage safety and health properly.

Duty of Care

In recent years, there have been increased rate of litigation as a result of breach of duty of care, that is, failure to exercise reasonable duty of care by the teachers or managers of schools. Nweke (2015) avers that:

Duty of care implies, where a person's act affects another, then the actor must exercise sufficient or reasonable care in discharging that act so that the next person is not adversely affected. It is foreseeable, the defendant should exercise adequate care in order not to harm the claimant (pp. 78-78).

Citing the case of Donohue V. Stevenson, Nweke asserts that Lord Atkin gave illumination as to duty of care through what is now known as the neighbor principle. Relating this principle to the school system implies that the teacher or manager of a school owes the students a duty of care since the students are under the teacher's or manager's control and supervision within school hours and/or within the school premises. The duty of care is for the safety and health of the students. The lower the age of the student, the higher the risk of safety and health and the more duty of care is required.

Kalagbor (2005) opines that the ingredient of duty of care in school system is that the school-child does not perceive hazards and risks in the same way as the teachers. The teachers owe a legal duty of care to the school-child due to the fact that the school-child is under supervision of all the school facilities that he/she engages in by the school manager and teacher. Duty of care is the responsibility of a person or organization to avoid any behaviour or omissions that could reasonably be foreseen to cause harm to others. Duty of care to anticipate possible causes of harm to others. Duty of care in workplaces is a legal form or a moral duty to do everything reasonably practicable to remove or minimize these possible causes of harm. Duty of care in schools is very important because teaching staff owe a duty to take reasonable care for the safety and welfare of students whilst students are involved in school activities. The duty owed is not a duty to ensure that no harm will ever occur but a duty to take reasonable care to avoid harm being suffered.

The principle of duty of care is that you have an obligation to avoid acts or omissions, which could be reasonably foreseen to injure or harm other people. This means that you must anticipate risks for your clients and take care to prevent them coming to harm. It is a moral or legal obligation to ensure the safety or well-being of others. Members of staff of secondary schools owe a duty to take reasonable care to protect those children and/or young people in their care and control from a reasonably risk of harm.

In tort law, a duty of care is a legal obligation which is imposed on an individual requiring adherence to a standard of reasonable care while performing an act that could foreseeably harm others. It is the first element that must be established to proceed with an action in negligence. In all however, the teacher and school administrator are expected to act with tact because their standard of care is now higher than that expected of a reasonable parent (Newuham, 2000). Tort is a civil wrong, other than breach of contract, for which a remedy may be obtained, usually in form of damages: a breach of a duty that the law imposes on persons who stand in a particular relation to one another (Garner, 2004).

Generally, the legal background of "Duty and care" is an element of the tort of negligence. In broad terms, the law of negligence provides that if a person suffers injury as the result of a negligent act or omission of another, the injured person should be compensated for loss and damage flowing from that negligence. To successfully bring a compensation claim in negligence a person must establish, on the balance of probabilities that are:

- A duty of care was owed to them at the time of the injury.
- The risk of injury was reasonably foreseeable.
- There was a breach of duty of care or a failure to observe a reasonable standard of care.

The fact that a duty of care exists does not mean that a school will be liable for an injury sustained by a student.

Standard of Care Required by Schools

The standard of care required by schools can vary depending on an individual staff members' position with respect to their level of control and direction over those children in their care or with whom they are engaged. Employers have a duty of care to their employee. In the secondary school system, principals and teachers are held to a high standard of care in relationship to students. The duty requires principals and teachers to take reasonable steps to minimize the risk of reasonable foreseeable harms including:

- Ensuring the school complies with the safe standards
- Provision of suitable complies with the safe standards.
- Provision of an adequate system of supervision
- Implementation of strategies to prevent bullying
- Ensuring that medical assistance is provided to a sick or injured student (Amie-Organ & Ossat, 2016).

Duty of Care in General

Whenever a teacher-student relationship exists, teachers have a special duty of care. Generally, teachers are expected to take such measures as are reasonable in the circumstance to protect a student under their charge from reasonable foreseeable risks of injury. The nature and extent of this duty will vary according to the circumstances required and will be higher when taking a group of students for swimming lessons than when teaching a group of SSS3 students in the classroom. The important issues in all cases will be what precautions the school could reasonably be expected to have taken to prevent the injury from occurring. This will involve consideration of the following factors:

- Identifying the risk of harm
- The probability that the harm could occur if care were not taken.
- The burden of taking precautions to avoid the risk of the harm.
- The social utility of the activity that creates the risk of harm (Chianu, 1999).

Duty of Care in Physical Education

The physical educator is to provide maximum physical activity programmes and also physical activity time within the class period, teach skills and activities that transfer into physical activity outside of physical education class, motivate student to be physically active. Physical education class is just one avenue during a school day that provides the opportunity for physical activity. During the allotted class time, it is recommended that children be

moderately or vigorously active for at least half of the class period. Several factors can contribute to making this happen:

- Effectively organized space, equipment, and students.
- Provide adequate equipment that allows all children to be active at the same time (e.g. one ball per child).
- Limit teacher talk or instruction time
- Structure the class so that learning occurs while students are being physically active.

With maximum and quality activity time, children become more skilled, knowledgeable and physically fit.

There is strong evidence that enhancing school-based physical education increases physical activity and physical fitness among school-aged children. Physical activity is part of a healthy balanced lifestyle as it helps individuals to maintain a healthy weight; it is beneficial for bone and muscle health; helps with psychological well-being and reduce the risk of certain diseases including cancer, heart disease and diabetes. But it is important to be aware of safety concerns that can be associated with engaging in physical activities. The physical educator is to ensure that students undertake physical education and sporting activities safely. Principals and teachers must ensure that the department specific requirements and guidelines are met and that:

- Relevant references and sporting associations are referred to so that the correct safety precautions are followed.
- Standard precautions and safety measures minimize any potential risk to students.
- All items of equipment are safe, regularly inspected, repaired and maintained.
- Records of inspections, maintenance and repairs are kept at the school.
- Hazards and risks are identified and controlled.
- Supervising teachers have first aid training (U.S. Department of Health & Human Services, 2008).

The physical educator should describe additional precautionary safety measures for a number of activities, such as ensuring that students are educated on how to play and to take part in the various sport activities, and use the right sports wears and students should be taught to use sport facility appropriately for the safety and welfare of the students. For example, Cooper et al., (2000) prescribed the following:

- High jumping should only be permitted where teachers or instructors experienced in high jump instruction or have appropriate qualifications use facilities like foam, practice-bar or round fibre glass bars. Do not use triangular aluminum bars.
- Baseball, soft ball, cricket: When a hard ball is used, male students should wear a genital protector (box). Additionally, for all students.
- Catchers should wear a body protector, such protectors, face mask, throat protector, helmet, etc.

Additionally, it is recommended to wear appropriate gear and get professional advice before embarking on an exercise programme so that the schedule is tailored to the individual's need and abilities.

Duty of Care in Excursion

An excursion is an activity by a school during which students leave the school grounds to engage in educational activities. Inter-school sports must be organized as an excursion and must be approved by the principal. If a small group of students represent the school at a sporting event, the principal should arrange for a teacher to accompany and supervise the students. The supervising teacher must be at the venue to supervise the students as they arrive. Principals, teachers, school counselor and others involved in school excursion, must anticipate the possibility of litigation following an incident or injury. They must be prepared for a detailed role of any activity. Principals are responsible for the conduct of all excursions and must ensure that:

- Excursions are planned, approved and conducted in accordance with department policy and requirements.
- Notification of school activity form is completed at least three weeks prior to the activity.
- There must be sufficient staff to provide appropriate and effective supervision
- There must be appropriate levels of supervision in view of the activities undertaken and students involved.
- Transport authorities should be consulted on appropriate travel times and at least a fortnight's notice of travel provided.

While the degrees of planning involved will depend on the risks involved, the conduct of any excursion or activity should take into account the educational purpose of the excursion and its contribution to the curriculum; department approval requirement for excursions and staff travel; maintenance of full records, including documentation of the planning process; suitability of the environment and/or venue for the excursion; informed consent from parents or careers; adequate students and staff medical information; and students preparation and behaviour.

Duty of Care in Laboratory Practices

Hazards and risks are present in school laboratories. The school laboratory is a unique place shared by students during practical, hence, they are prone to harm as they come in contact with harmful chemicals and equipment. It becomes imperative for teachers in the sciences (Physics, Biology and Chemistry) to enlighten students on safety procedures. Amie-Organ and Ossat (2016) have highlighted that during laboratory practicals precautions must be observed in the use of spill clean-up kits, protective gloves, chemical-resistant gloves, heat-resistant gloves, laboratory coats, boots, respiratory/gas mask, noise shield/mask, safety goggles, test-tube rack, tripod stand, wire gauze, and napkin. Other safety measures to take in science laboratory practicals include handling of chemical substances that emit toxic fumes

in fume cupboards, and availability of fire extinguishers and sand buckets in case of fire emergencies. An eye shower or sprinkler is a necessary equipment in the science laboratory for washing off chemical spills on the eyes before proceeding for medical attention.

A handbook of all chemical substances should be kept in the laboratory indicating their chemical formula, lethal levels, toxic levels and proper methods of disposal when it is no longer in use. It is the duty of the teacher to conduct a risk assessment of students' laboratory practices to ensure such areas are safe and free from hazards. Equipment, new machines or chemical product should be certified safe before it is used by both teachers and students. The teacher should always educate students to always protect themselves, others, their research and environment (Amie-Organ & Ossat, 2016). To maintain good duty of care in laboratory the following best practices should be followed to avoid the harm injury that would lead to litigations: practice good personal hygiene; while working in the laboratory, wear personal protective equipment-eye protection, gloves, laboratory coat-as directed by your supervisor; properly segregate and dispose of all laboratory waste, and decontaminate all potentially infectious materials before disposal; keep pathways clear by placing extra items (books, bags, etc) on the shelves or under the work tables; long hair (chin-length or longer) must be tied back to avoid fire; wear sensible clothing including foot wear; wash your hands after working with potentially hazardous materials and before leaving the laboratory.

Statement of the Problem

The main purpose of this study was to investigate educational duty of care in secondary schools in Rivers State, Nigeria. Specifically, the objectives were to:

1. Find out the factors that lead to a failure to observe a reasonable standard of care in secondary schools in Rivers State.
2. Ascertain the strategies that could be adopted to observe a reasonable standard of care in secondary schools in Rivers State.

Research Questions

1. What are the factors that lead to a failure to observe a reasonable standard of care in secondary schools in Rivers State?
2. What are the strategies that could be adopted to observe a reasonable standard of care in secondary schools in Rivers State?

Methodology

The study adopted a descriptive survey research design. The population of the study consisted of 7,820 teachers in the 268 public and 264 approved private secondary schools in Rivers State (source: Rivers State Ministry of Education, Port Harcourt. Planning, Research, and Statistic Department, 2018). From the population, a sample of 800 teachers, 410 of which were drawn from the public secondary schools constituted the sample. The sample was obtained through stratified random sampling technique. The instrument for data collection was a self-structured questionnaire titled: Educators' Duty of Care in Secondary Schools Questionnaire (EDCSSQ). It consisted of two sections, A and B. Section A was to generate demographic information while section B had 17 items addressing the research questions and eliciting 'Yes' or 'No' responses. The instrument was validated and its reliability established at 0.80 using Pearson r. Simple percentages and tables were used to provide answers to the research questions. A criterion percentage of 50% guided the decision.

Results

The results obtained in this study after data analysis are presented and analyzed below:

Research Question 1:

What are the factors that lead to a failure to observe a reasonable standard of care in secondary schools in Rivers State?

Table 1: Percentage scores of Respondents' opinion on Factors that lead to a failure to observe a reasonable standard of Care

S/N	Questionnaire Items	Public School	Secondary Teachers	Private School	Secondary Teachers
		N = 410 Yes (%)	No (%)	N = 390 Yes (%)	No (%)
1.	Non assessment of risk to safety of students by schools	364 (88.8%)	46 (11.2%)	381 (97.7%)	9 (2.3%)
2.	Non compliance of schools with safe standards.	371 (90.5%)	39 (9.5%)	296 (75.9%)	94 (24.1%)
3.	Staff engagement in sexual harassment of students	400 (97.6%)	10 (2.4%)	384 (98.5%)	6 (1.5%)
4.	Non provision of suitable and safe premises.	266 (64.9%)	144 (35.1%)	243 (62.3%)	147 (37.7%)
5.	Inadequate system of supervision.	400 (97.6%)	10 (2.4%)	376 (96.4%)	14 (3.6%)
6.	Non implementation of strategies to prevent bullying.	389 (94.9%)	21 (5.1%)	312 (80%)	78 (20%)
7.	Non provision of medical assistance to the sick or injured student.	410 (100%)	0 (0%)	390 (100%)	0 (0%)
8.	Giving adequate attention to students during lessons.	0 (0%)	410 (100%)	0 (0%)	390 (100%)
9.	Over-crowding classrooms as a result of rapid enrolment.	293 (71.5%)	117 (28.5%)	213 (54.6%)	177 (45.4%)
	Aggregate Percentage Score	78.4%	21.6%	73.9%	26.1%

Source: Field data 2019

Data on Table 1 showed that respondents in their opinion insisted that items 1, 2, 3, 4, 5, 6, 7 and 9 listed on the table were factors that lead to a failure to observe a reasonable standard of care in secondary schools in Rivers State, hence the percentage scores above the criterion percentage score. The aggregate percentage scores of 78.4% and 73.9% attested to this finding. However, teachers in both public and private secondary schools in Rivers State maintained that giving adequate attention to students during lesson enable educators observe a reasonable standard of care, hence the low percentage score 0% in item 8.

Research Question 2:

What are the strategies that could be adopted to observe a reasonable standard of care in secondary schools in Rivers State?

Table 2: Percentage scores of Respondents' Opinion on Strategies that could be Adopted to Observe a Reasonable Standard of Care

S/N	Questionnaire Items	Public School	Secondary Teachers	Private School	Secondary Teachers
		N = 410		N = 390	
		Yes (%)	No (%)	Yes (%)	No (%)
1.	Taking sufficient assessment of risks.	402 (98.0%)	8 (2.0%)	381 (97.7%)	9 (2.3%)
2.	Having the right policy organization and arrangement in place.	400 (97.6%)	10 (2.4%)	382 (97.9%)	8 (2.1%)
3.	Ensuring reasonably safe place and equipment.	375 (91.5%)	35 (8.5%)	292 (74.9%)	98 (25.1%)
4.	Provision of adequate system of supervision.	410 (100%)	0 (0%)	390 (100%)	0 (0%)
5.	Implementation of strategies to prevent bullying	298 (72.7%)	112 (27.3%)	274 (70.3%)	116 (29.7%)
6.	Ensuring the school complies with safe standards	401 (97.8%)	9 (2.2%)	373 (95.6%)	17 (4.4%)
7.	Ensuring that medical assistance is provided to a sick or injured students.	399 (97.3%)	11 (2.7%)	376 (96.4%)	14 (3.6%)
	Aggregate Percentage Score	93.6%	6.4%	90.4%	9.6%

Source: Field data 2019

Data on table 2 showed that respondents in their opinion insisted that all the items listed on the table were strategies that could be adopted to observe a reasonable standard of care in secondary schools in Rivers State, hence the percentage scores of 93.6% and 90.3% attested to this finding.

Discussion of Findings

On the factors that lead to a failure to observe a reasonable standard of care in secondary schools in Rivers State, the findings of this study revealed that non assessment of risk to safety of students by schools, non compliance of schools with safety standards, staff engagement in sexual harassment of students, non provision of suitable and safe premises, inadequate system of supervision, non implementation of strategies to prevent bullying, non provision of medical assistance to the sick or injured students, and overcrowding classrooms as a result of rapid enrolment are factors that lead to a failure to observe a reasonable standard of care. In support of these findings, Abraham (2002) averred that basically, standard structural stipulations for every classroom include ratio of not more than 35:40

pupils to a teacher. Agreeing with Abraham, RoSPA (2012) asserted that it is required that schools make suitable and sufficient assessment of the risk to health and safety of staff, pupils and others. If pupils will be involved in any activity where there are elements of risk you will need to show that you have taken all reasonably practicable precautions.

Furthermore, in support of the above findings, the American Association of University Women in Wikipedia (2013) posited that sexual harassment has physical and emotional effect on female students. Izuagba and Obodo (2015) affirmed that students involved in sexual abuse stand to suffer the trauma and consequences of contracting HIV/AIDS.

On the strategies that could be adopted to observe a reasonable standard of care in secondary schools in Rivers State, the study discovered taking sufficient assessment of risks, having the right policy organization and arrangement in place, ensuring reasonable safe place and equipment, provision of adequate system of supervision, implementation of strategies to prevent bullying, ensuring the school complies with safe standards, and ensuring that medical assistance is provided to a sick or injured student. In corroboration with these findings, Management of Health and Safety at Work Regulations in RoSPA (2012) asserted that the duties of the schools to meet their overall duty of care include having the right policy in place; undertaking sufficient risk assessments and having access to good advice. Agreeing with the above assertion, Obasi and Asodike (2007) opined that in order to effectively manage human resources in an organization, the workplace safety must be ensured; all laboratory equipment must be carefully labeled and positioned in such a way as not constitute danger to staff and students. Omie-Organ and Ossat (2016) supported the above findings when they averred that the duty required of educators to take reasonable steps to minimize the risk of reasonable foreseeable harms include ensuring that the school complies with the safe standards, provision of suitable and safe premises, provision of an adequate system of supervision, implementation of strategies to prevent bullying, and ensuring that medical assistance is provided to a sick or injured student.

Implication and Conclusion

The educational implication of the findings of this study is that when a reasonable standard of care is provided for students in secondary schools, the teachers will be able to manage and conduct school activities effectively and take their students beyond the traditional pedagogical practices. The students will also be able to participate actively in classroom activities as teachers will deliver their lessons through safe plant and equipment which make teaching-learning easier and more interesting.

Based on the findings of this study, it was concluded that in order to ensure safe and healthy school environment, educators should identify the factors that lead to a failure to observe reasonable standard of care and adopt effective means of ensuring good safety and health practices to enable their students participate and compete favourably in this knowledge economy. Good duty of care must not be overlooked in the school system. This will enhance instructional delivery and reduction of litigations.

Recommendations

In order to ensure reasonable standard of care in secondary schools, the following were recommended:

1. Government should establish safety, health and welfare legislation and common law duties of care that set down specific requirements for school owners and employees.
2. There should be the concern by all education stakeholders in identifying hazard and putting in place control measures to minimize risk in the school environment for effective school service delivery.
3. Educational managers, school administrators, academic and non-academic staff, students and community members should ensure that safe standards are attained and maintained in schools.
4. Secondary school principals should ensure the provision of adequate system of supervision in order to identify risk factors and devise precautionary measures

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