



Teachers' Responsibilities in-LoCo-Parentis in Secondary Schools in Abraka Metropolis, Delta State, Nigeria

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Keywords : *Teachers' Responsibilities, In-LoCo- Parentis, Nigerian Secondary Schools.*

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I. INTRODUCTION

The concept of in-locho-parentis has historically been used by teachers and administrators as a prominent component of the legal and sometimes ethical rationale for the disciplining of students under their charge. The literal translation of the term in-locho-parentis means "in place of the parents" was the foundation which American school of thought developed in the colonial and pre – revolutionary war era. The doctrine was traced as far back as Blackstones commentaries on the land of England, which said in part:

"A parent may also delegate part of his parent authority, during his life, to the tutor or school master of his child; who is then in-locho-parentis and had such a portion of the power of the parent, viz; that the restraint and correction, as may be necessary, to answer the purposes for which he is employed"

In Nigerian educational system, teachers are placed in a position to discipline and care for students' safety through reasonable roles and regulations under the in-locho-parentis doctrine, in the place of a parent. It is a legal doctrine under which an individual assumes parental rights, duties and obligations without going through the formalities of legal adoption.

The loco-parentis doctrine seemed to be in full force as schools are tempted to safeguard students, (Nakpodia, 2007). Many Nigerian educational institutions enacted controversial rules governing dress codes and so called hate speech, all in the name of protecting students. and violence in campuses, however, became a very real threat.

Since time immemorial, the doctrine of 'in-locho-parentis' has empowered teachers to act in the place of parents to enable the control of students' conduct. It becomes possible to adopt some practices which can make claim necessary for the control of their school. Were the teacher take disciplinary actions which do not conformed to the basic principles of law of natural justice (*nemo iudex in casua sua*) and equity, there is bound to be some problems constitutionally. Students represent directly their parents, who are immensely concerned with how the school treats such children (Thakur et al, 1980). In most cases students' governances and discipline, may either violate or disrespect certain Fundamental Rights of individuals. The Nigerian constitution (1999) contains fundamental rights and roles which constitutes inalienable and supreme rights of the individuals.

From the constitutional standpoint, parents expect that their children's welfare and certain school discipline practices may lead to student conflicts which may lead to litigations. The basis for 'in-locho-parentis' doctrine when not well utilized is no justification for overriding constitutional rights.

In the traditional African society, it is the child that can be seen and not heard. Thus, such a child could be told to wait until that child is grown. The history of pupils and the law in Nigeria has been that of one way traffic. This can be adduced to how pupils learn to obey relative existing rules. School authorities deal with students when rules are violated. In the colonial era, pupils obeyed relative existing rules and regulations

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because they were controlled and had no voice in decision making. As a result, students were subordinates. However, in the present day Nigeria, the fact has to be accepted that the child, just like the adult has inalienable rights which institution are constitutionally bound to uphold and protect.

Student governances require discipline, care and safety which can take different forms in schools and among teachers as well as principals. It should be recognized that the law will not excuse a principal and other based on ignorance. In a democratic society like Nigeria, institutions preparing the youth for life should give them a fair play when it is conducting its own affaire. School authorities generally tend to believe that students once in school, have no rights. Teachers as well as principals, generally tend to think that the child should obey without resistance. Absolute obedience and respect are expected and demanded. On the other hand, students tend to have wrong concept of their rights. It is the wrong conception of such rights that have often led Nigerian students in educational institutions to behave in a manner which normally offend public morality and brings them within the warm embrace of the law. When the school authorities carry out their duties with violations, such persons are liable. The teacher, principal and post primary school board could be sued individually or together for constitutional wrong and tort liabilities (Nakpodia, 2011).

This full responsibility assumed by teachers and other supporting staff is known as 'the doctrine of in-loco-parentis'. On this basis, teachers have a full right to mould the children's moral character, assist them in mental and physical development, and cater for the fostering of the spirit of national consciousness in the children.

However, the right of teachers' in-loco- parentis is not absolute when considering the control they have over students in the Nigerian school system. It should be realized that when teachers are not absolute in considering the control they have over students in the Nigerian school system within the scope of their duties in terms of reasonable and executing possible rules and regulations, the courts may assist in promoting proper and effective teaching and learning atmosphere in the schools. This is because the courts in democratic societies as in case of Nigeria, as it is all over the world viewed school officials as standing in-loco-parentis, allowing them to regulate the students in any manner since parents agree to delegate school teachers the parental authority to control their children's conduct in a manner which will be of the best interest to the children in the schools. Every Nigerian school has a set of rules and regulations meant to guide students towards good conduct and behaviour in order to maintain general discipline, peace and order, necessary for effective teaching and learning.

II. STATEMENT OF THE PROBLEM

With the recent increase in the Delta state secondary school enrolment, the problem of student governance, care, safety and discipline are bound to accumulate and cause more burden on teachers. Students' indiscipline is considered a negative attribute which is inimical to the education process. Due to the impact of education in our society, students and [parents are becoming more enlightened and aware of their rights. Enlightened parents are becoming more critical about how student's guidance and discipline practices in the schools are carried out. In the process of carrying out their duties, teachers are becoming more concerned about how they carry out their duty of care and safety of students placed under their care.

The right to life, liberty and happiness are limited by law. It is a fact that teachers have no absolute power in their schools. Where the teachers' fundamental right stops, another person's begins. When rules conduct are made, the court will normally not question such rules until executed in a democratic society; since the teachers' are trusted to make reasonable laws. However, when misconduct disrupts school activities, it is justifiable by the court that school authority equally follows to maintain proper decorum and promote a favourable learning atmosphere in the classroom of the school. This study is therefore undertaken to give school administrators a better understanding of the in 'loco parentis' doctrine and its application to the secondary school system in Abraka metropolis of Delta State.

III. RESEARCH QUESTIONS

The following questions were raised to guide the study:

1. Does the attitude of the teachers differ with regard to years of teaching experience in their responsibility in-loco-parentis in the school system?
2. Does the attitude of teachers differ with regard to the location of the school in their responsibility in-loco-parentis in the school system?
3. To what does the size of school affect teachers' attitude in their responsibility in-loco-parentis in the school system?

IV. RESEARCH HYPOTHESES

The following null hypotheses were tested:

1. There is no significant difference between the attitude of experienced and less experienced teachers in their responsibility in-loco-parentis in the school.
2. There is no significant difference between attitude of teachers in urban and rural schools in their responsibility in-loco-parentis.
3. There is no significant difference between the attitude of school teachers in large and small schools in their responsibility in-loco-parentis.

V. REVIEW

a) *The In Loco Parentis Doctrine: Defined*

The doctrine of "in-loco-parentis" had been based on the assumption that by sending their children, parents agree to delegate to school officials the power or parental authority to control their children's conduct in a manner that will be of best interest to the child. Giesselmann (1978) however points out that today, this situation is drastically changing. Parents now agree that when the concept originated, education was voluntary and personal. The parents voluntarily committed the child to the authority of the teacher, who usually spend the entire day with the child either in a classroom or school thereby develop something akin to a parent-child relationship with the pupil. Today, most teachers instruct children for only part of the day and have fewer opportunities to form class relationships in large classes and schools.

Peretomode (1991) stated that Giesselmann further pointed out the critical fallacy that is inherent in the in-loco-parentis doctrine and made reference to the observations made by an American task force. The school-child relationship is intermittent with different adults involved at different times of the day and year; they often at superficial levels and for short periods of the time stayed with the child. Parents' relationship of the other hand; ordinarily incorporates deep feelings of mutual love and affection. In fact, teachers stand in-loco-parentis only to the degree that they may act somewhat like a parent does only some of the time for the purpose of maintaining orders in our educational systems.

b) *Teacher and the In-Loco-Parentis Doctrine*

Teachers have the power, authority and responsibility for administering a school's disciplinary programme. This power to control and discipline students for infractions is traceable to the age-old doctrine of in-loco-parentis (in place of parents). This position of the teachers with regards to disciplinary control of students is well explained in the Corpus Juris Secundum (79 C.J.S. 493).

As a general rule, a teacher, to a limited extent at least, stands in-loco-parentis to student under his charge, and may exercise such powers of control, restraint, and correction over them as may be reasonably necessary to enable him to properly perform his duties as teacher and to accomplish the purpose of education; he is subject to such limitations and prohibitions as may be defined by law. The courts in the Nigerian school system viewed school officials as standing in-loco-parentis, regulating the students in and manner – subject only to the standards and restraints that parents would use in supervising the welfare of the child. For example, in *Gott V. Berea College* in the U.S. (1913), the justice held that:

Teachers stand in-loco-parentis concerning the physical and moral welfare and mental training of the students, and we are unable to see why, to that end, they may not make any rule or regulation for the Government or betterment of their students that a parent could for the same purpose.

By implication, the courts ordinarily will not interfere with the authority of a school to make rules governing students' behaviour unless such rules are unlawful, unreasonable, and capricious or against public policy. In loco parentis doctrine had been based on the assumption that by sending their children to school, parents agree to delegate to school officials the power or parental authority to control their children's conduct in a manner that will be of the best interest to the child (Alexander, 1980). However, it is pointed out that today, this situation is drastically changing.

Parents now argue that when the concept originated, education was voluntary and personal, the parent voluntarily committed the child to the authority of the teacher who usually spent the entire day with the child in a small classroom or school, thereby developing something akin to a parent-child relationship with the student. Most teachers today instruct children for only part of the day and have fewer opportunities to form close relationship in large classes and schools. It is in the light of this latter point the Ohio Department of Education in the United States has come to reject the idea that schools may act in place of the parents. The Department was of the view that to stand in-loco-parentis, one must assume full responsibilities and obligations of a natural parent to a student. Alexander (1980) stated thus:

That students' relationship to School and to parents are entirely different. The School/Child relationship is intermittent with different adults involved at different times of the day and year; they often at superficial levels and for short periods of time stayed with the child. Parents' relationship on the other hand ordinarily incorporates deep feelings of mutual love and affection. For this reason, corporal punishments inflicted by parents would have an entirely different effect than the same punishment meted out by School authority (1980:4).

What this means is that the doctrine of in-loco-parentis is on the wane not only in the United States but also in Europe and even in Nigeria. This is because by far the most common usage of in loco parentis relates to teachers and students. For hundred of years, the English common-law concepts shaped the right and responsibilities of public school teachers: until the late nineteenth century, their legal authority over students

was as that of parents. Changes in U.S. education concurrent with a broader reading by courts of the rights of students began bringing the concept into disrepute by the 1960s. Cultural changes, however, brought a resurgence of the doctrine in the twenty – first century. Taking root in colonial American schools, in loco parentis was an idea derived from English Common Law. The colonists borrowed it from the English idea of schools having not only educational but also moral responsibility for students (Walton, 1992).

c) *Teachers and Cases of In-Loco-Parentis Doctrine*

Teachers in the Nigerian school system, who in their positions in-loco- parentis to the children in their charge, act reasonably in this capacity provided their actions are in accordance with the general and approved educational practice, and provided that they take such case of their children as careful fathers would take, and they have little to fear from mischance of school life.

In a case, some grammar school students were playing, contrary to the school rule, with a cricket- pitch roller which can cover one of them. The parents sued the teacher and the master in charge, claiming damages for negligence. The case was headed at LEEDSA sizes in March 1998 under Mr. Justice Hilbery's summing up, who has a mastery exposition of the doctrine of a careful father. He said "it was not suggested for the plaintiff that anybody could reasonably say that a master must watch boys not merely in classes, but throughout every moment of their school lives". Thus, a teacher has the right in-loco-parentis to control the child during and after school premises. A teacher is not only known and called that professional name "teacher" as it is with "doctors". "Engineers", "Pastors" etc within the system only but also outside the organizations. Hence, teachers as professionals should not be involved in any professional misconduct but to abide to the various codes of ethics of the teaching profession.

In fact, when children are dropped at the school gates, the law says teachers must assume the role of 'replacement parent'. Under the children Act 1989, teachers have a duty of care towards their pupils, traditionally referred to as "in-loco-parentis". Legally, while not bound by parental responsibility, teachers must become as any reasonable parent would do in promoting the welfare and safety of children in their care. The idea dates back to the 19th century when courts were first coming to terms with teachers' responsibilities. It was during this period that case laws established that a teacher should act "as a prudent father". The Health and Safety at Work Act 1974 also requires schools to show a duty of care towards pupils' safety and well being, although not their 'welfare', in so far as this is practicable.

Teachers are very often unsure where the line should be drawn between the role of teacher and that of school worker. Indeed, teachers have increasingly become not merely educators, but also mentors in their pupils all round personal development. Many teachers have kept breakfast supply for children especially at the Day Care Centers and at kindergarten or primary school in many educational institutions in Nigeria, using Day Care Centers of Delta State University, Abraka as case in point, who have missed out at home, and others who have washed soiled cloths on the pretext that the child has had an 'accident' at school. In recent years in the country many school have set up food centres to help supporting parent and to provide with essential nourishment at the start of the school day. Citizenship is now also part of the school curriculum, as is health and sex education in which teachers must introduced a whole range of issue such as personal hygiene, respect for others and safe sex. Teachers are often entrusted with confidential duties of a child's personal background, perhaps related to child's protection issues and linked with social vices, or perhaps, even through information volunteer by the family or the children themselves (Hunt, 2002).

d) *Fundamental Issue of Constitutional Impact of In-Loco-Parentis*

Concern for the traditional stability of the doctrine of in-loco-parentis occurred in two landmark decisions made by the Gault and Tinker.

VI. IN RE GAULT

While the case of Gerald Gault is not a "school law" case, nevertheless, it stand as an important decision in extending the rights of due process to juveniles, Gault, age 15, was arrested for allegedly lewd and indecent remarks over the telephone. His parents were not informed of his arrest. He was not given a factual basis for the charges, and was in custody for three days without being released. He was held at a detention home that kept no records until the day of his hearing. In addition, there were no witnesses called to testify against the boy, particularly the compliant. Yet he was committed to the State industrial school until he reached age 21. The United State Supreme Court decided that all these procedures would not be permitted, that "Due process of the law is the primary and indispensable foundation of individual freedom. Furthermore, again while not an educational case, its implications are felt in student-to-school system contacts relative to due process rights and the degree by which in loco Parentis can be interpreted.

a) *Tinker vs. Des Moines Independent Community School District*

The second landmark decision is an educational law case. The now famous Tinker decision

revolves around some students who were suspended from a Des Moines, Iowa school for wearing black armbands to school as a sign against the war in southeast Asia. Many significant points were argued in this case including the principal's stand that in loco parentis was an integral part of his authority. The Supreme Court ruled in favour of the students, saying as long as expression did not disturb the general discipline or endanger the lives of others. Students had a right to free expression. The court added:

First amendment right applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the school house gate.

In both cases, the concept of in loco parentis was modified when placed in conflict with procedural due process protection of the Sixth and Fourteenth Amendment of the constitution (In Re Gault) as well as the freedom of speech and expression protection under the First and Fourteenth Amendments (Tinker). The totality of in Loco Parentis as an absolute defense under any and all instance will be severely scrutinized. The principals and the parents are not necessarily the same in their disciplinary stance with students on all issues.

b) Cases of In loco parentis Doctrine in the Legal Arena

There are hundred of court cases relating to the doctrine of in loco parentis. Indicative of a recent trend, these cases illustrates an alteration of parental expectations of the college environment. A well – known example of this trend is the case of Scott Kruegar a freshman at the Massachusetts Institute of Technology (MIT) in the fall of 1997. Krueger was found unconscious in a room at his fraternity after a night of drinking and apparent hazing. The hazing incident allegedly involved members of the fraternity forcing Krueger to consume excessive amounts of alcohol. When he was discovered, his bold alcohol level was 0.40. He later died at Massachusetts General Hospital. Shortly after his death, Krueger's parents sued MIT, alleging that the institution's inadequate alcohol and hosing policies played a role in their son's death (Healy, 2000). For several years after Kruger's death, his parents fought against MIT over where the responsibility for Scott's death lay (Sontag, 2003). In the fall of 2000, after extensive legal maneuvering and negative publicity, the president of MIT personally apologized to the Krugers and the University paid \$6million settlement, thereby ending the lawsuit (Healy, 2000). During his apology, President Charles M.Vest said to Krueger's parents, "Despite your trust in MIT, things went terribly awry. At a very personal level, I feel that we at MIT failed you" (Healy, 2000).

As a direct result of the Kruger case, MIT changed its housing and fraternity policies. Beginning in the fall of 2002, MIT required all freshmen to live in an on-campus residence hall for the first time in its 137-year history. The institution also provided more intense training for its residence hall staff, and they now pay live-in advisors to monitor fraternity and sorority housing. In a nutshell, the Krueger case is important because, it marked the beginning of a new era of in loco parentis on the college campus.

Parents have not only sued for alcohol related deaths; they have also held universities responsible for students' suicide. In another case, MIT was involved in a lawsuit brought by parents of a student who burned herself to death in her residence hall room after receiving months of counseling from university counseling services (Campbell, 2002). In addition Forum College also settled a case out of court where it accepted partial responsibility for a student suicide (Hoover, 2003). A student, Michael Frentzel, had what were apparently self-inflicted scratches and bruises on his neck. A dean and counselor at Ferrum College had Frentzel sign a statement stating that he would not harm himself or anyone else, and then left him alone in his room. While alone in his room, Frentzel hung himself. As part of the settlement with Frentzel's family, the college agreed to improve its counseling and support services (Hoover, 2003).

In Nigeria, an incident in Calabar, the Capital of Cross River State, Nigeria, a teacher at Duke Town secondary school flogged a form one student, Grace Okon Akpan, 12 years old, with a cane and she collapsed and become unconscious. She later died in hospital Grace was among four other students who were being punished for noise-making in class. In another related incident, captioned TEACHER NABBED for ALLEGEDLY BEATING PUPIL to DEATH, National Concord (Wednesday, April 20, 1988, p.9) reported that Mr. Luke Madaki, a grade one headmaster in Zangon-kafaf district, kachia Local Government area, was arrested by the police and charged to court for allegedly beating a primary school pupil to death.

The pupil, Miss Rebeccah Woje, aged 14 was a primary four pupil at the local Education Department, Mabushikataf. The pupil was accused of stealing one naira from her home, by a colleague. The matter was reported to the headmaster who discovered that the girl actually stole the money. He asked her to lie on a school bench to be flogged and he administered the beating.

The girl suffered from severe head injuries and several cuts on her back and buttocks as a result of serious caning received from the headmaster.

The girl complained to her parents two days latter that she was yet to recover from the punishment meted out her by the school's headmaster. Before

arrangements were concluded to take her to hospital which was about 35 kilometers away, the girl died. The autopsy on her revealed that she died from multiple injuries as a result of severe beating.

Furthermore, in the case of *Kukoyi F vs. Al Ukhure and the Benin Board of Education* (1977), a student lost one of his eyes consequent upon the corporal punishment administered by his teacher in the classroom. The teacher was charged for tort liability and negligence. The teacher's action constructed the fundamental right of the student the respect for the dignity of the human person, freedom from any form of torture or inhuman or degrading treatment and the right to life. The Benin High Court awarded the student N20,000 as damages.

In another similar case, *Elizabeth Aliri vs. John Ekeogu*, the plaintiff, a primary school pupil, in the High Court of Imo State schools holden at Owerri, sued the defendant as well as the Director of schools Imo State and the Imo State Schools Management Board, claiming N4,000.00 as special damages for medical bills by her mother and N96,000.00 as general damages assault, battery and negligence which resulted in the permanent loss of the plaintiff's left eye. The teacher John Ekeogu had hit the left eye of little Aliri, an eleven year old primary school pupils with a cane causing her permanent injury in 1987. The flogging of little Aliri was even without justification (Peretomode 1992).

c) *Search and Seizure of Students in Schools by Teachers*

Teachers in their locus standi has the right as parents to search students' lockers. In general, locker searches and the like have tended to be litigated favourably for the school system on the basis of in loco parentis. An appellate court indicated that "the school is a very special place...and the teacher has the authority to protect (the children) from danger." Those cases found in favour of the students or parents were as a result of unreasonable searches. Most of the rationale for searches in the school which might otherwise be considered illegal centre on the school is a special place' statement set forth in *People v. Overton*. The case tends to suggest that the tenet of in loco parentis has been viewed "as a social concept antedating the Fourth Amendment, that any action, including a search, taken there under reasonable suspicion should be accepted as necessary and reasonable.

The "emergency doctrine" has been fashioned in such a way so as to justify searches where a dangerous object such as a gun in fact found. Still another case held that a high school official "acting under the colour of a private individual-in loco parentis-would be able to admit evidence gathered in a search even it were held to be illegal. The student, in this particular instance, had been searched three blocks from the school.

While there exists a large grey area between that which is reasonable and unreasonable, it is clear that so-called "strip searches" are found to be excessive and dehumanizing. In these cases the doctrine of in loco parentis has been overstepped as a rationale. Federal and State Courts have not turned their backs on the in Loco Parentis doctrine. They have simply redefined its limits. Education of children, imposes three responsibilities which teachers and school owe to their students; A instruction, B. supervision, and C. safety (Nwagwu, 1987). As a result, school officials require a degree of authority in complying with these responsibilities. Thus, when acting in performance of these duties, teachers are recognized to have the authority to enact reasonable rules governing students conduct and to use reasonable disciplinary actions in controlling students (Nakpodia, 2009). In these matters, school official authority is much like that of the students' parents. There exist a basic question which a school administrator might ask him or herself and which the court posed as a means of establishing the relationship between the teacher and the student. Under similar circumstances, would it be reasonable for a parent to inflict the (given) punishment. As a result of the challenges to school authority and the refinement of the parameters of in loco parentis, Illinois principals are further guided by statement set forth in Document No. 1 which discusses the governance of the school district included are the following:

1. The board of education is delegated with extensive power which provides for the exercise of discretionary judgment.
2. The powers are limited by rights granted to other parties by various laws, regulation and court decisions (Remmlein and Wane, 1979).

d) *Imposition of Corporal Punishment by Teachers*

Teachers at the secondary school level have rights to impose corporal punishment on students. To date the key court decision relating to corporal punishment has been rendered in favour of the school system. In Illinois corporal punishment is authorized (but not mandated) under the school Code #24-24, being implicit in the statutory in Loco Parentis language that:

...teachers and other certified educational employees shall maintain discipline in the schools in all matters relating to the discipline... they stand in reform of parents and guardians to the pupils (Hirsberg, 1994:1 – 2).

In one particular case, *Baker v. Owen*, in loco parentis was a major issue because the parent of a child who was to be corporally punished disagreed with it on principles. The Supreme Court had to consider several different aspects of the case but key item was whether the parents' control of the disciplining of this child was a fundamental constitutional right. The court rendered a

decision in favour of the school system, upholding the authority of the school to disciplining without parental consent.

The duty of the teacher is explicitly mentioned when the teacher is standing in proxy for the nation through his obligation to the state. It is also assumed that the limitation of how far teachers can go with students, especially when disciplining them within the scope of duties. It is not all teachers that carry out discipline except the one authorized by the teacher. Therefore, either discipline masters or marshals are authorized to enforce discipline on the students. The possible reason that can be advanced for such are:

- The person carrying out the punishment is normally biased if the offence was committed against him / her.
- There is vested interest and
- Punishment could be regarded as malicious, arbitrary and capricious.

This assumption can be dangerous and when there is an unusual injury in the process of administering the punishment, it is difficult to convince others of non-biased punishment. This is why it is advisable to pass the punishment role to some neutral persons who cannot be accused of bias. There are hundred of courts cases in the last several years relating to the doctrine of in loco parentis. Indicative of recent trend these cases illustrate an alteration of parental expectations of the college environment (Campbell 2002). A well – known example of this trend is the case of Scott Krueger was found unconscious in a room at his fraternity after a night of drinking and apparent hazing. The hazing incident allegedly involved members of the fraternity forcing Krueger to consume excessive amounts of alcohol. When he was discovered, his blood alcohol level was 0.40. He later died at Massachusetts General Hospital. Shortly after his death, Krueger's parents sued MIT, alleging that the institutions inadequate Krueger's death, his parents fought against MIT over where the responsibility for Scott's death lay (Sontag, 2003). In the fall of 2000, after extensive legal maneuvering and negative publicity, the president of MIT personally apologized to the Krueger's and the University paid a \$6 million settlement, thereby ending the lawsuit (Healy, 2000).

e) *Teacher's Role as "Replacement Parent"*

The following are the role of teachers as replacement parent:

- a. Plan school trips carefully and follow your school procedure and always make sure you have adequate staff ratio.
- b. If you are concerned about a child's welfare, speak to the teacher in charge of child's protection. Record your concerns and remember that any disclosure must be reported.

- c. No are not responsible for the child after school hours. Any child not collected by 4.00pm can be referred to social services. Parents are responsible for their children's attendance and punctuality.
- d. You do not have to supervise pupils at lunch time. Nor do you have to take part in clubs outside school teaching hours.
- e. You are obliged to administer medicines to pupils, although you may be asked to oversee children's use of asthma pumps, for example. You should keep a list of pupils who have medical conditions. Unwell children should not be in school, and parents contact details in case of emergencies.
- f. Get trained help immediately if an accident occurs.
- g. Corporal punishment is unlawful. If children endanger themselves or others, you can use "reasonable force" to restrain them, but tread with caution here as your actions could be legally challenged and you could risk being assaulted.
- h. In the worst case, if you are accused of negligence you must seek advice. As your employer, your school has vicarious liability and you should not be held personally responsible where you have maintained a professional standard of supervision.

f) *Duty of Care Owed by a Secondary School Teacher*

Barbara in paper published in the Alternative Law Journal (1996), citing a case, opined that the English court has prevaricated in considering the nature of any duty owed by school to parents. In *Van Oppen v Clerk tot eh Bedford* that the Court of Appeal was confronted with a pupil seriously injured playing rugby football at school only five months after the mooted introduction of the scheme. The court of Appeal refused to impose a greater duty on the school in relation to a pupil than rested on the pupil's parents.

According to Barbara (1996) the circumstance were not seen to give rise to a duty on the school to have regard to its pupils' economic welfare by advising on the dangers of the football or taking out insurance. In the absence of such duty on the school, it could not be said to have voluntarily assumed a duty to advice parents on the question of insurance against injury. Quite why the case was characterized, as an economic loss is not clear: had it been seen as physical injury the issues would have been more straightforward.

However, under "Hedley Byrne" the reliance principle could have been expanded. In any event, there was considered to be no evidence that the parents relied on the school for advice in connection with insurance against personal accident. Accordingly, the defendant school trustees were held not liable in negligence. In the same vein in Nigerian school, *Bori High Court* was confronted with a girl called *Magdalene Dappa. Vs. Nte.*

According to Peretomode (1992) in Magdalene, girl from Opobo, was a student of Opobo Secondary School a River State Government – owned school and controlled by the State Ministry of Education. While in School, Magdalene got married and became pregnant shortly before her W.A.E.C. Examination. Going by the Ministry of Education's regulation, she was prevented by a Mr. Nte from writing the examination. She later took an action against Mr. Nte. The presiding High Court judge, in dismissing the case, held that both the school teachers and the principal were agents of the Rivers State Government (Ministry of Education) and not teacher or principal.

It should be pointed out here that it is not always, that any employee can hide under the cloak of "his employer's responsibility for torts committed by his employee". If a teacher does something which he is not employed to do at all or specifically prohibited to do, he is not acting in the course of his employment. In such a situation, his employer may not be held responsible for his tortuous acts. In other words, unless the wrong done falls within the course of the servant's employment, the master is not liable. For instance, most state education laws on English prohibit teachers from administering corporal punishment on students, except the principals or his delegate. If a teacher, unauthorized, administers the cane, thus causing serious injury to a child, and if sued, he may wholly be responsible for the damages. Besides, his employers (the School Board) may as well discipline him appropriately for violating the Board's regulation forbidding teachers to administer corporal punishment.

It cannot be overemphasized that what is particularly interesting most in this case is the influence of the reliance analysis upon the legal outcome. Whether the plaintiff relied upon the school to advice was considered material (by judge in High Court of Appeal) in assessing the scope of the duty owed by the school to the plaintiff. The plaintiff was, of course, contending that a duty existed not only to take reasonable care for his health and safety as a pupil at the school but further to provide information. The duty was said to arise from a general obligation on the school to have regard to the economic welfare of the pupils in its care. Another related duty – to advice – was claimed to arise either as a consequence of failure to provide information or as a result of the actions of the school's officers in relation to advice or gain as a result of the actions of the school's officers. The plaintiff's case is summarized by Balcombe as depending on the existence of either: (a) a duty to have regard to the economic welfare of its pupils arising from the relationship of school pupil; or (b) a duty arising from an assumption by the school of specific responsibility in relation to personal accident insurance (Barbara, 1996). Therefore, the court considered whether liability in negligence can ever arise under Hedley Byrne principle

where there has been a mere failure to speak or a failure to provide information in the school situation.

Furthermore, according to Balcombe, the results of the imposition of the duty to insure or protect economic welfare, which was contended in Van Oppen, would be to enlarge the scope of the duty resting upon the school. The case clearly illustrated a problem with the increasing use of the term proximity as legal currency in the determination of both duty and breach of duty. For it is clearly acknowledged by the court that there was a proximity between Bedford school and the pupils as in the case of Magdalele. Dappa vs. Nte in Opobo, in Nigeria whereby the Education Laws of River State made the Court to dismiss the case.

Furthermore, was another question a duty of care owed by a teacher to a pupil was also considered in a case between Elizabeth Aliri (suing by her friend Benadeth Aliri (plaintiff/respondents) vs. John Ekeogu and others including the State schools Management Board in Owerri, Nigeria (J. Ogu Ugoagwu) 16/11/89-suit No. HOW/200/89 on Corporal punishment- Assault and battery and negligence. A teacher who commits a felonious Act cannot take cover under the officers' Protection Law.

The plaintiff/respondent was primary five pupil of Community Primary School, Ohekelem, Imo State and the applicant/defendant was a teacher at the said school and the teacher of the plaintiff/ respondent. On 2nd December, 1985, a thief was caught in a palm produce depot near the community primary school Ohekelem where the applicant was a teacher and the respondent was one of his class pupils. The thief was being beaten up by irate members of the public. The applicant instructed his class pupils, including the plaintiff (i.e. the respondent to) to go and see how thieves are treated so as to learn a lesson from there. The class pupils obeyed and went to the said depot. Soon after the bell rang for the pupil to resume classes, all of them, including the respondent, began to run back to the school. As they were doing so the applicant respondent, began to run back to the school. As they were doing so the applicant picked a cane and began to flog the pupils. In the process he landed the cane on his left eye of the respondent injuring the left eye. He abandoned her wife she was crying out in pain and anguish. Another pupil, Ngozi Nweke, acted as a good Samaritan and took the respondent home on a motorbike for treatment of her injured left eye. The respondent lost the eye in spite of treatment given to her. The applicant/defendant admitted the above facts.

In her writ of summons filed on 20/7/87 (about 18 months, 2 weeks and 4 days after the injury occurred) the respondent claimed against the applicant, 2nd and 3rd defendants jointly and severally :-

The sum N100,000 (One Hundred Thousand Naira) being special and general

damages for assault, battery and negligence, in that on the 2nd day of December, 1985, the 1st defendant who is a servant of, and under control and employment of the 2nd defendants, as a teacher at the community primary school, Ohekelem, Ngo Okpala within jurisdiction which resulted in the loss of her left eye.

The 1st defendant /applicant piled a motion on notice on 12th April, 1988, prayer the Honourable Court for an order dismissing the plaintiff/applicants suit on grounds of law to wit.

That the action instituted by the plaintiff/respondent against me 1st defendant/applicant is a nullity as it statutorily time- barred section 2 of the public officers Protection Law Cap 106, Laws of Eastern Nigeria, 1963 as applicable to Imo State.

The applicant who is a servant by virtue of his being employed as a teacher with the Imo State School Management Board was seeking to be protected in his action by the Public Officer Protection law 106 section 2 which provide s as follows:

- "Where any action, or other prosecution, or other proceeding is commenced against any person for any act done in pursuance or execution or in tended execution of any alleged neglect or default in the execution of the any such law, duty or authority, the following provisions shall have effect."
- The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within 3 months next after the act, neglect or default complained of, or in case of a continuance of damages or in jury, within three months next after the ceasing thereof."

VII. METHODOLOGY

The study is descriptive in nature based on ex-post facto design. The population of the study consisted of 124 teachers from the 19 secondary schools in Abraka metropolis, Delta State, Nigeria. The simple

random sampling technique was used to select two schools out of the nineteen secondary schools in Abraka metropolis as sample for the study. This number represented 10.5% of the schools in the area. The stratified simple random sampling technique was used to select fourteen teachers from the secondary schools in the metropolis. Consequently, the sample consists of twenty-four teachers.

Two sets of research instrument were utilized in the study. The first set of questionnaire dealt with the personal data of the teacher. It required information about the experience, size of the school and the location of the teacher. This was to be completed by the school teacher. The second set of the questionnaire deal with 30 items on attitude of teachers' responsibilities in-loco-parentis in secondary schools, which was constructed and designated as "TRILPQ" Teachers' Responsibilities In-LoCo-Parentis Questionnaire.

The researcher adopted two types of procedures to establish the validity of the instrument. These are the face and content validity. In the reliability of the instrument, the split half reliability method was used on ten respondents not included in the sample. For the split half method, the data collected were divided into two halves using the odd number items for one and the even numbers for the others; and as a result, a correlation formula was applied to the coefficient. The correlation coefficient was found to be 0.85 using the Spearman Brown Prophecy formula.

The researcher personally administered the questionnaire on all the respondents in their respective schools. The study made considerable use of tables for the presentation and analysis of data, and a t-test statistic was employed in analyzing the data based on the three hypotheses tested to guide the study.

VIII. RESULTS

a) Hypotheses Testing

i. Hypotheses

There is no significant difference between the attitude of experienced and less experienced teachers in their responsibility in-loco-parentis in the school.

Table 1 : T-test analysis of the difference between the attitude of experienced and less experienced teachers in their responsibility in-loco-parentis in the school.

Group	Number	(r)	Df	Cal.t-value	t-value	Conclusion
Experienced teachers	13	7.41	16	45.6	1.746	Significant
Less Experienced Teachers	11					

P- < 0.05 Level of Significance.

Table 1 showed the t-test analysis of the difference between the attitude of experienced and less experienced teachers in their responsibility in-loco-parentis in the school. In the result of the analysis, the calculated t-value of 45.6 is significant at the 0.05 level of significance. The degree of freedom is 16. Since the

calculated t-value of 45.6 is greater than the table t-value of 1.746, the null hypothesis is rejected.

ii. Hypothesis 2

There is no significant difference between attitude of teachers in urban and rural schools in their responsibility in-loco-parentis.

Table 2 : T-test analysis of the difference between attitude of teachers in urban and rural schools in their responsibility in-loco-parentis.

Group	Number	(r)	Df	Cal. t-value	t-value	Conclusion
Urban teachers	19	7.33	23	39.95	1.714	Significant
Rural teachers	5					

P < 0.05 Level of Significance.

In testing this hypothesis, data used were derived from school teachers in urban and rural areas. In calculating the result, the calculated t-value of 39.95 is higher than the table value of 1.714. This implies that the null hypothesis was rejected. Invariably, 79.2% of teachers are in urban areas while 20.8% of teachers are

in rural areas in ensuring the responsibilities in loco parentis.

iii. Hypothesis 3

There is no significant difference between the attitude of school teachers in large and small schools in their responsibilities in-loco-parentis.

Table 3 : T-test analysis of the difference between the attitude of school teachers in large and small schools in their responsibility in-loco-parentis.

Groups	Number	(r)	Df	Cal.t-value	t-value	Conclusion
Large schools teachers	14	7.33	28	137.6	1.701	Significant
Rural schools teachers	10					

P < 0.05 Level of Significance.

To test this hypothesis, the calculated value t-value 137.6 is significant at 0.05 level of significant. Where degree of freedom is 28, the table value is 1.701. Since the table value of 1.701 at 0.05 level of significance is lower than calculated t-value of 137.6, it is implied that the z value is significant. Thus, the null hypothesis was rejected. 58.3% of school teachers are in large school while 41.7% are small schools. This means that school teacher in large school will find difficult to carry out their duty of governance, discipline, care and safety of students than those in small schools. School teachers in large schools will need two or three supporting staff to make their administrative task easier and more efficient in terms of exercising their responsibilities in loco parentis.

are placed in a position to discipline and care for pupils' safety through reasonable rules and regulations. Hence, as a result, from the findings made on teachers' empowerment of the doctrine of in-loco-parentis, the following discussions were reached.

In hypothesis 1, which states that there is no significant difference between the attitude of experienced and less experienced teachers in their responsibility in-loco-parentis in the school, the hypothesis was rejected. As a result, the legal implications of the 'in loco parentis' doctrine showed that the attitudes of experienced teachers differ from the attitude exhibited by less experienced teachers. Experienced teachers who took courses in school law were influenced and their attitudes towards dealing with school problem were modified. It would be recommended that in-service training should be organized for less experienced teachers to enable them carry out disciplinary activities effectively.

IX. DISCUSSION OF RESULTS

The school is a service organization with the primary function of educating children hence teachers

In hypothesis 2, which states that there is no significant difference between attitude of teachers in urban and rural schools in their responsibility in-loco parentis, was also rejected. This implies that 79.2% of the school teachers were in urban areas while 20.8% teachers were in the rural areas. This means that despite other variable, such as personal interactions and disciplinary measures, are more effective in rural schools. In urban schools, there are no much personal interactions between teachers and students as a result, disciplinary measures are assigned to supporting staff who have little or no legal knowledge about the legal implications on the governance, discipline, care and safety of students placed in their care.

Hypothesis 3, which states that there is no significant difference between the attitude of school teachers in large and small schools in their responsibilities in-loco-parentis, was also rejected. This means that teachers in large schools find it difficult to carry out their duty of governance, discipline, care and safety of students than those in small schools.

X. FINDINGS

The following findings were made in the study:

1. There is a significant difference in attitude between teachers who are experienced that can discipline pupils and less experienced teachers who cannot discipline pupils by exercising their duties of in loco parentis.
2. There is a significant difference in attitude between teachers in urban and rural areas in their responsibilities in loco parentis in the school system.
3. There is a significant difference in attitude between teachers in large school and those in small schools, playing the role of parents to the students in the schools.

XI. CONCLUSION

Arising from the findings of the study, the following conclusions were drawn on the basis of teachers legal knowledge on their responsibilities in loco parentis to students in the school system in Abraka metropolis as it is in the country, Nigeria that the experienced and the less experienced teachers have taken courses in school law which shows that they improved their knowledge of legal aspect of school operation which significantly changed their general attitude of school administration. Also, disciplinary measures are more effective in the rural schools because there is a room for personal interactions between students and teachers by way of exercising their position of in loco parentis in the schools.

XII. RECOMMENDATIONS

Based on the findings, it was recommended that:

1. In-service training should be organized for less experienced teachers in the area of legal school operation to enable them know their responsibilities in loco- parentis and those of students to avoid infringement.
2. Urban schools should be de-populated thereby making it possible for personal interaction to take place between teachers in exercising their powers in loco parentis with students, while rural schools should attract more people to attend since there is room for personal interaction.
3. The educational authorities may consider sending more experienced group of teachers to problematic and large schools to allow for better legally and administratively controlled schools. Hence young teachers should be trained to have legal knowledge of secondary school operations involving school law involving school law.

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