

1 Teachers' Responsibilities in-Loco-Parentis in Secondary Schools 2 in Abraka Metropolis, Delta State, Nigeria

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6

7 **Abstract**

8 This paper examined teachers' responsibilities in loco-parentis in secondary schools in Abraka
9 metropolis, Delta State, Nigeria. It highlighted some applied precedent cases of
10 in-loco-parentis doctrine in secondary schools using variables such as experience, location of
11 school and size of school in the area of study. Three research questions and three hypotheses
12 were formulated and tested with t-test statistic. The population of teachers used was 124 out
13 of which 24 were sampled using stratified random sampling technique. An instrument was
14 constructed for data collection and the result showed that experienced teachers who have
15 courses in school law improved their knowledge of the legal aspect of school operation in
16 in-loco-parentis doctrine. Disciplinary measures were effective in the rural schools because
17 there was room for personal interaction. The teacher's duty of governance, discipline, care
18 and safety were now taken more seriously. Based on the conclusions, it was recommended that
19 in service training should be organized for less experienced teachers to enable them know their
20 rights and those of students to avoid infringement and to play their role as parents in the
21 school system.

22

23 **Index terms**— Teachers' Responsibilities, In-Loco-Parentis, Nigerian Secondary Schools.

24 **1 Introduction**

25 "A parent may also delegate part of his parent authority, during his life, to the tutor or school master of
26 his child; who is then in-loco-parentis and had such a portion of the power of the parent, viz; that the
27 restraint and correction, as may be necessary, to answer the purposes for which he is employed" Author :
28 Department of Educational Administration and Policy Studies, Delta State University, Abraka -Nigeria. E-mail
29 : edwardnakpodia@yahoo.com In Nigerian educational system, teachers are placed in a position to discipline
30 and care for students' safety through reasonable roles and regulations under the in-loco-parentis doctrine, in the
31 place of a parent. It is a legal doctrine under which an individual assumes parental rights, duties and obligations
32 without going through the formalities of legal adoption.

33 The loco-parentis doctrine seemed to be in full force as schools are tempted to safeguard students, (Nakpodia,
34 2007). Many Nigerian educational institutions enacted controversial rules governing dress codes and so called
35 hate speech, all in the name of protecting students. and violence in campuses, however, became a very real
36 threat.

37 Since time immemorial, the doctrine of 'in-locoparentis' has empowered teachers to act in the place of parents
38 to enable the control of students' conduct. It becomes possible to adopt some practices which can make claim
39 necessary for the control of their school. Were the teacher take disciplinary actions which do not conformed to
40 the basic principles of law of natural justice (nemo iudex in casua sua) and equity, there is bound to be some
41 problems constitutionally. Students represent directly their parents, who are immensely concerned with how the
42 school threats such children ??Thakur el at, 1980). In most cases students' governances and discipline, may

5 RESEARCH QUESTIONS

43 either violate or disrespect certain Fundamental Rights of individuals. The Nigerian constitution (1999) contains
44 fundamental rights and roles which constitutes inalienable and supreme rights of the individuals.

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

48 In the traditional African society, it is the child that can be seen and not heard. Thus, such a child could
49 be told to wait until that child is grown. The history of pupils and the law in Nigeria has been that of one
50 way traffic. This can be adduced to how pupils learn to obey relative existing rules. School authorities deal
51 with students when rules are violated. In the colonial era, pupils obeyed relative existing rules and regulations
52 E Year he concept of in-loco-parentis has historically been used by teachers and administrators as a prominent
53 component of the legal and sometimes ethical rationale for the disciplining of students under their charge. The
54 literal translation of the term in-locoparentis means "in place of the parents" was the foundation which American
55 school of thought developed in the colonial and pre -revolutionary war era. The doctrine was traced as far back as
56 Blackstones commentaries on the land of England, which said in part: T because they were controlled and had no
57 voice in decision making. As a result, students were subordinates. However, in the present day Nigeria, the fact
58 has to be accepted that the child, just like the adult has inalienable rights which institution are constitutionally
59 bound to uphold and protect.

60 Student governances require discipline, care and safety which can take different forms in schools and among
61 teachers as well as principals. It should be recognized that the law will not excuse a principal and other based
62 on ignorance. In a democratic society like Nigeria, institutions preparing the youth for life should give them a
63 fair play when it is conducting its own affaire. School authorities generally tend to believe that students once in
64 school, have no rights. Teachers as well as principals, generally tend to think that the child should obey without
65 resistance. Absolute obedience and respect are expected and demanded. On the other hand, students tend to
66 have wrong concept of their rights. It is the wrong conception of such rights that have often led Nigerian students
67 in educational institutions to behave in a manner which normally offend public morality and brings them within
68 the warm embrace of the law. When the school authorities carry out their duties with violations, such persons
69 are liable. The teacher, principal and post primary school board could be sued individually or together for
70 constitutional wrong and tort liabilities (Nakpodia, 2011). This full responsibility assumed by teachers and other
71 supporting staff is known as 'the doctrine of inloco-parentis'. On this basis, teachers have a full right to mould
72 the children's moral character, assist them in mental and physical development, and cater for the fostering of the
73 spirit of national consciousness in the children.

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

84 2 II.

85 3 Statement of The Problem

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

93 4 III.

94 5 Research Questions

95 The following questions were raised to guide the study: 1. Does the attitude of the teachers differ with regard
96 to years of teaching experience in their responsibility in-loco-parentis in the school system? 2. Does the attitude
97 of teachers differ with regard to the location of the school in their responsibility inloco-parentis in the school
98 system? 3. To what does the size of school affect teachers' attitude in their responsibility in-loco-parentis in the
99 school system?

100 **6 iv. Research Hypotheses**

101 The following null hypotheses were tested: 1. There is no significant difference between the attitude of experienced
102 and less experienced teachers in their responsibility in-loco-parentis in the school. 2. There is no significant
103 difference between attitude of teachers in urban and rural schools in their responsibility in-loco-parentis.

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106 **8 E**

107 **9 Year**

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

117 V.

118 **10 Review a) The In Loco Parentis Doctrine: Defined**

119 The doctrine of "in-loco-parentis" had been based on the assumption that by sending their children, parents agree
120 to delegate to school officials the power or parental authority to control their children's conduct in a manner
121 that will be of best interest to the child. Giesselmann (1978) however points out that today, this situation is
122 drastically changing. Parents now agree that when the concept originated, education was voluntary and personal.
123 The parents voluntarily committed the child to the authority of the teacher, who usually spend the entire day
124 with the child either in a classroom or school thereby develop something akin to a parent-child relationship with
125 the pupil. Today, most teachers instruct children for only part of the day and have fewer opportunities to form
126 class relationships in large classes and schools. ??eretomode (1991) stated that Giesselmann further pointed out
127 the critical fallacy that is inherent in the in-loco-parentis doctrine and made reference to the observations made
128 by an American task force. The school-child relationship is intermittent with different adults involved at different
129 times of the day and year; they often at superficial levels and for short periods of the time stayed with the child.
130 Parents' relationship of the other hand; ordinarily incorporates deep feelings of mutual love and affection. In
131 fact, teachers stand inloco-parentis only to the degree that they may act somewhat like a parent does only some
132 of the time for the purpose of maintaining orders in our educational systems.

133 **11 b) Teacher and the In-Loco-Parentis Doctrine**

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

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

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

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

154 Parents now argue that when the concept originated, education was voluntary and personal, the parent
155 voluntarily committed the child to the authority of the teacher who usually spent the entire day with the
156 child in a small classroom or school, thereby developing something akin to a parent/child relationship with the

13 D) FUNDAMENTAL ISSUE OF CONSTITUTIONAL IMPACT OF IN-LOCO-PARENTIS

157 student. Most teachers today instruct children for only part of the day and have fewer opportunities to form close
158 relationship in large classes and schools. It is in the light of this latter point the Ohio Department of Education
159 in the United States has come to reject the idea that schools may act in place of the parents. The Department
160 was of the view that to stand in-locoparentis, one must assume full responsibilities and obligations of a natural
161 parent to a student. Alexander (1980) stated thus: That students' relationship to School and to parents are
162 entirely different. The School/Child relationship is intermittent with different adults involved at different times
163 of the day and year; they often at superficial levels and for short periods of time stayed with the child. Parents'
164 relationship on the other hand ordinarily incorporates deep feelings of mutual love and affection. For this reason,
165 corporal punishments inflicted by parents would have an entirely different effect than the same punishment meted
166 out by School authority ??1980:4).

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

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

176 12 c) Teachers and Cases of In-Loco-Parentis Doctrine

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

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

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

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

211 13 d) Fundamental Issue of Constitutional Impact of In-Loco- 212 Parentis

213 Concern for the traditional stability of the doctrine of in-locoparentis occurred in two landmark decisions made
214 by the Gault and Tinker.

215 **14 VI.**

216 **15 In Re Gault**

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

227 **16 a) Tinker vs. Des Moines Independent Community School
228 District**

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

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

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

242 **17 b) Cases of In loco parentis Doctrine in the Legal Arena**

243 There are hundred of court cases relating to the doctrine of in loco parentis. Indicative of a recent trend, these
244 cases illustrates an alteration of parental expectations of the college environment. A well -known example of this
245 trend is the case of Scott Kruegar a freshman at the Massachusetts Institute of Technology (MIT) in the fall of
246 1997. Krueger was found unconscious in a room at his fraternity after a night of drinking and apparent hazing.
247 The hazing incident allegedly involved members of the fraternity forcing Krueger to consume excessive amounts
248 of alcohol. When he was discovered, his bold alcohol level was 0.40. He later died at Massachusetts General
249 Hospital. Shortly after his death, Krueger's parents sued MIT, alleging that the institution's inadequate alcohol
250 and hazing policies played a role in their son's death (Healy, 2000). For several years after Krueger's death, his
251 parents fought against MIT over where the responsibility for Scott's death lay (Sontag, 2003). In the fall of
252 2000, after extensive legal maneuvering and negative publicity, the president of MIT personally apologized to
253 the Krugers and the University paid \$6million settlement, thereby ending the lawsuit (Healy, 2000). During his
254 apology, President Charles M.Vest said to Krueger's parents, "Despite your trust in MIT, things went terribly
255 awry. At a very personal level, I feel that we at MIT failed you" (Healy, 2000).

256 As a direct result of the Kruger case, MIT changed its housing and fraternity policies. Beginning in the fall of
257 2002, MIT required all freshmen to live in an on-campus residence hall for the first time in its 137-year history.
258 The institution also provided more intense training for its residence hall staff, and they now pay livein advisors
259 to monitor fraternity and sorority housing. In a nutshell, the Krueger case is important because, it marked the
260 beginning of a new era of in loco parentis on the college campus.

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

270 In Nigeria, an incident in Calabar, the Capital of Cross River State, Nigeria, a teacher at Duke Town secondary
271 school flogged a form one student, Grace Okon Akpan, 12 years old, with a cane and she collapsed and become
272 unconscious. She later died in hospital Grace was among four other students who were being punished for noise-
273 making in class. In another related incident, captioned TEACHER NABBED for ALLEGEDLY BEATING

19 D) IMPOSITION OF CORPORAL PUNISHMENT BY TEACHERS

274 PUPIL to DEATH, National Concord (Wednesday, ??pril 20, 1988, p.9) reported that Mr. Luke Madaki, a grade
275 one headmaster in Zangonkafaf district, kachia Local Government area, was arrested by the police and charged
276 to court for allegedly beating a primary school pupil to death.

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

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

283 The girl complained to her parents two days latter that she was yet to recover from the punishment
284 arrangements were concluded to take her to hospital which was about 35 kilometers away, the girl died. The
285 autopsy on her revealed that she died from multiple injuries ass a result of severe beating.

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

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

298 18 c) Search and Seizure of Students in Schools by Teachers

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

307 The "emergency doctrine" has been fashioned in such a way so as to justify searches where a dangerous object
308 such as a gun in fact found. Still another case held that a high school official "acting under the colour of a private
309 individual-in loco parentiswould be able to admit evidence gathered in a search even it were held to be illegal. The
310 student, in this While there exits a large grey area between that which is reasonable and unreasonable, it is clear
311 that so-called "strip searches" are found to be excessive and dehumanizing. In these cases the doctrine of in loco
312 parentis ahs been overstepped as a rationale. Federal and State Courts have not turned their backs on the in Loco
313 Parentis doctrine. They have simply redefined its limits. Education of children, imposes three responsibilities
314 which teachers and school owe to their students; A instruction, B. supervision, and C. safety (Nwagwu, 1987).
315 As a result, school officials require a degree of authority in complying with these responsibilities. Thus, when
316 acting in performance of these duties, teachers are recognized to have the authority to enact reasonable rules
317 governing students conduct and to use reasonable disciplinary actions in controlling students . In these matters,
318 school official authority is much like that of the students' parents. There exist a basic question which a school
319 administrator might ask him or herself and which the court posed as a means of establishing the relationship
320 between the teacher and the student. Under similar circumstances, would it be reasonable for a parent to inflict
321 the (given) punishment. As a result of the challenges to school authority and the refinement of the parameters of
322 in loco parentis, Illinois principals are further guided by statement set forth in Document No. 1 which discusses
323 the governance of the school district included are the following:

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

327 19 d) Imposition of Corporal Punishment by Teachers

328 Teachers at the secondary school level have rights to impose corporal punishment on students. To date the
329 key court decision relating to corporal punishment has been rendered in favour of the school system. In Illinois
330 corporal punishment is authorized (but not mandated) under the school Code #24-24, being implicit in the
331 statutory in Loco Parentis language that: ?teachers and other certified educational employees shall maintain
332 discipline in the schools in all matters relating to the discipline? they stand in reform of parents and guardians
333 to the pupils (Hirsberg, 1994:1 -2).

334 In one particular case, *Baker v. Owen*, *in loco parentis* was a major issue because the parent of a child who
335 was to be corporal punished disagreed with it on principles. The Supreme Court had to consider several different
336 aspects of the case but key item was whether decision in favour of the school system, upholding the authority of
337 the school to disciplining without parental consent.

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

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

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

358 The following are the role of teachers as replacement parent: a. Plan school trips carefully and follow your
359 school procedure and always make sure you have adequate staff ratio. Barbara in paper published in the
360 Alternative Law Journal (1996), citing a case, opined that the English court has prevaricated in considering
361 the nature of any duty owed by school to parents. In *Van Oppen v Clerk tot eh Bedford* that the Court of
362 Appeal was confronted with a pupil seriously injured playing rugby football at school only five months after
363 the mooted introduction of the scheme. The court of Appeal refused to impose a greater duty on the school in
364 relation to a pupil than rested on the pupil's parents.

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

370 However, under "Hedley Byrne" the reliance principle could have been expanded. In any event, there was
371 considered to be no evidence that the parents relied on the school for advise in connection with insurance against
372 personal accident. Accordingly, the defendant school trustees were held not liable in negligence. In the same vein
373 in Nigerian school, Bori According to Peretomode (1992) in Magdalene, girl from Opobo, was a student of Opobo
374 Secondary School a River State Government -owned school and controlled by the State Ministry of Education.
375 While in School, Magdalene got married and became pregnant shortly before her W.A.E.C. Examination. Going
376 by the Ministry of Education's regulation, she was prevented by a Mr. Nte from writing the examination. She
377 later took an action against Mr. Nte. The presiding High Court judge, in dismissing the case, held that both the
378 school teachers and the principal were agents of the Rivers State Government (Ministry of Education) and not
379 teacher or principal.

380 It should be pointed out here that it is not always, that any employee can hide under the cloak of "his
381 employer's responsibility for torts committed by his employee". If a teacher does something which he is not
382 employed to do at all or specifically prohibited to do, he is not acting in the course of his employment. In such a
383 situation, his employer may not be held responsible for his tortuous acts. In other words, unless the wrong done
384 falls within the course of the servant's employment, the master is no liable. For instance, most state education
385 laws on English prohibit teachers from administering corporal punishment on students, except the principals or
386 his delegate. If a teacher, unauthorized, administers the cane, thus causing serious injury to a child, and if sued,
387 he may wholly be responsible for the damages. Besides, his employers (the School Board) may as well discipline
388 him appropriately for violating the Board's regulation forbidding teachers to administer corporal punishment.

389 It cannot be overemphasized that what is particularly interesting most in this case is the influence of the
390 reliance analysis upon the legal outcome. Whether the plaintiff relied upon the school to advice was considered
391 material (by judge in High Court of Appeal) in assessing the scope of the duty owes by the school to the plaintiff.
392 The plaintiff was, of course, contending that a duty existed not only to take reasonable care for his health and
393 safety as a pupil at the school but further to provide information. The duty was said to arise from a general
394 obligations on the school to have regard to the economic welfare of the pupils in its care. Another related duty
395 -to advice -was claimed to advice either as a consequence of failure to provide information or as a result of the
396 actions of the school's officers in relation to advise or gain as a result of the actions of the school's officers. The

20 METHODOLOGY

397 plaintiff's case is summarized by Balcombe as depending on the existence of either: (a) a duty to have regard
398 to the economic welfare of its pupils arising from the relationship of school pupil; or (b) a duty arising from an
399 assumption by the school of specific responsibility in relation to personal accident insurance (Barbara, 1996).
400 Therefore, the court considered whether liability in negligence can ever arise under Hedley Byrne principle where
401 there has been a mere failure to speak or a failure to provide information in the school situation.

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

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

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

426 In her writ of summons filed on 20/7/87 (about 18 months, 2 weeks and 4 days after the injury occurred)
427 the respondent claimed against the applicant, 2nd and 3rd defendants jointly and severally :-The sum N100,000
428 (One Hundred Thousand Naira) being special and general damages for assault, battery and negligence, in that
429 on the 2nd day of December, 1985, the 1st defendant who is a servant of, and under control and employment of
430 the 2nd defendants, as a teacher at the community primary school, Ohekelem, Ngo Okpala within jurisdiction
431 which resulted in the loss of her left eye. The applicant who is a servant by virtue of his being employed as a
432 teacher with the Imo State School Management Board was seeking to be protected in his action by the Public
433 Officer Protection law 106 section 2 which provides as follows:

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

440 VII.

441 20 Methodology

442 The study is descriptive in nature based on ex post facto design. The population of the study consisted of 124
443 teachers from the 19 secondary schools in Abraka metropolis, Delta State, Nigeria. The simple random sampling
444 technique was used to select two schools out of the nineteen secondary schools in Abraka metropolis as sample
445 for the study. This number represented 10.5% of the schools in the area. The stratified simple random sampling
446 technique was used to select fourteen teachers from the secondary schools in the metropolis. Consequently, the
447 sample consists of twenty-four teachers.

448 Two sets of research instrument were utilized in the study. The first set of questionnaire dealt with the
449 personal data of the teacher. It required information about the experience, size of the school and the location
450 of the teacher. This was to be completed by the school teacher. The second set of the questionnaire deal with
451 30 items on attitude of teachers' responsibilities in-locoparentis in secondary schools, which was constructed and
452 designated as "TRILPQ" Teachers' Responsibilities In-Loco-Parentis Questionnaire.

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

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

462 **21 VIII.**

463 **22 Results**

464 **23 a) Hypotheses Testing i. Hypotheses**

465 There is no significant difference between the attitude of experienced and less experienced teachers in their
466 responsibility in-loco-parentis in the school. ii. Hypothesis 2

467 There is no significant difference between attitude of teachers in urban and rural schools in their responsibility
468 in-loco-parentis. In testing this hypothesis, data used were derived from school teachers in urban and rural areas.
469 In calculating the result, the calculated t-value of 39.95 is higher than the table value of 1.714. This implies that
470 the null hypothesis was rejected. Invariably, of teachers are in urban areas while of teachers are in rural areas in
471 ensuring the responsibilities in loco parentis.

472 iii. Hypothesis 3

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

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

477 Table 1 showed the t-test analysis of the difference between the attitude of experienced and less experienced
478 teachers in their responsibility in-locoparentis in the school. In the result of the analysis, the calculated t-value
479 of 45.6 is significant at the 0.05 level of significance. The degree of freedom is 16 To test this hypothesis, the
480 calculated value tvalue 137.6 is significant at 0.05 level of significant. Where degree of freedom is 28, the table
481 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,
482 it is implied that the z value is significant. Thus, the null hypothesis was rejected.

483 of school teachers are in large school while are small schools. This means that school teacher in large school
484 will find difficult to carry out their duty of governance, discipline, care and safety of students then those in small
485 schools. School teachers in large schools will need two or three supporting staff to make their administrative task
486 easier and more efficient in terms of exercising their responsibilities in loco parentis.

487 **24 58.3% 41.7%**

488 **IX.**

489 **25 Discussion of Results**

490 The school is a service organization with the primary function of educating children hence teachers are placed in
491 a position to discipline and care for pupils' safety through reasonable rules and regulations. Hence, as a result,
492 from the findings made on teachers' empowerment of the doctrine of in-loco-parentis, the following discussions
493 were reached.

494 In hypothesis 1, which states that there is no significant difference between the attitude of experienced and less
495 experienced teachers in their responsibility in-loco-parentis in the school, the hypothesis was rejected. As a result,
496 the legal implications of the 'in loco parentis' doctrine showed that the attitudes of experienced teachers differ
497 from the attitude exhibited by less experienced teachers. Experienced teachers who took courses in school law
498 were influenced and their attitudes towards dealing with school problem were modified. It would be recommended
499 that in-service training should be organized for less experienced teachers to enable them carry out disciplinary
500 activities effectively. significant difference between the attitude of school teachers in large and small schools in
501 their responsibilities in-loco-parentis, was also rejected. This means that teachers in large schools find it difficult
502 to carry out their duty of governance, discipline, care and safety of students than those in small schools.

503 **26 X. Findings**

504 The following findings were made in the study:

505 1. There is a significant difference in attitude between teachers who are experienced that can discipline pupils
506 and less experienced teachers who cannot discipline pupils by exercising their duties of in loco parentis.

507 2. There is a significant difference in attitude between teachers in urban and rural areas in their responsibilities
508 in loco parentis in the school system.

509 3. There is a significant difference in attitude between teachers in large school and those in small schools,
510 playing the role of parents to the students in the schools.

511 **XI.**

512 27 Conclusion

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

520 XII.

521 28 Recommendations

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

530 29 2012 Year

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

538 Hypothesis 3, which states that there is no

539 30 Global



Figure 1:

[Note: f) Duty of Care Owed by a Secondary School Teacher]

Figure 2:

1

D D D D)
(

[Note: EP-< 0.05 Level of Significance.]

Figure 3: Table 1 :

2

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

P-< 0.05 Level of Significance.

Figure 4: Table 2 :

2012

Year

2 34

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Groups	Large schools	Number	20.8% 14	(r)	Df	Cal.t-value
teachers				79.2%	28	
						7.33
						137.6

Global Journal of Human Social Science Rural schools teachers P-< 0.05 Level of Significance. 10

Figure 5:

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²© 2012 Global Journals Inc. (US) Teachers' Responsibilities in-Loco-Parentis in Secondary Schools in Abraka Metropolis, Delta State, Nigeria.33

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