



NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE EXPRESS
WAY, JABI - ABUJA
FACULTY OF LAW
DEPARTMENT OF PUBLIC LAW (PUL)
OCTOBER/NOVEMBER EXAMINATION 2016

COURSE CODE: LAW 444 (PUL 444)
COURSE TITLE: ADMINISTRATIVE LAW II
CREDIT UNIT: 4
TIME ALLOWED: 2 ½ HOURS
INSTRUCTIONS: ANSWER FOUR QUESTIONS ONLY.
QUESTION ONE IS COMPULSORY

QUESTIONS

1. The Edu Act 2016 gives the Secretary of State for Education the power to remove individual schools from local authority control and to allow them to be run by private organizations for profit. Section 3 of the Act states that:
 - a. *The Secretary of State for Education alone shall make the decision as to whether a school should be removed from local authority control;*
 - b. *The Secretary of State shall take into account the views of those affected by the decision;*
 - c. *The Secretary of State may consult with any parties as he sees fit.*

On 10th April 2016, the Secretary of State writes to the headmistress Bright Future Schools, informing her that he is considering using his powers under the Edu Act 2016 to remove the school from local authority control and to allow it to be run by Star Gate Ltd, a company specializing in education. On hearing the news, Mrs. Carla, a parent of a child at the School, begins to organize a petition of other parents and teachers against the plan. When informed of this during a radio interview, the Secretary of State says that he will not be swayed by the petition and has no intention of listening to the views of those organizing or signing it as they are unlikely to have anything useful to say. During the same interview, the Secretary of State also announces that the final decision about Bright Future Schools will be made by Mr. Knowles, a civil servant. On 20th April, Mr. Knowles writes to the Governors of Bright Future Schools asking for their views about whether the school should be removed from the local authority control to be run by Star Gate Ltd. His letter states that he should receive a reply by 25th April and that this should be accompanied by a N25, 000.00 processing fee.

On 30th April, Mr. Knowles announced that he has decided that Bright Future Schools will be removed from local authority control and will be run by Shining Stars Ltd. On the same day, the local newspaper reports that Mr. Knowles' wife is a major shareholder in Star Gate Ltd.

Advise the School Governors and Mrs. Carla, about the possible grounds of judicial review which may enable the decision to close the school to be challenged.

2. Save our Communities (SOC) is a pressure group founded to raise the profile of local development issues. It is particularly concerned with the conservation of buildings of architectural and historic importance and is prepared to seek judicial review of planning decisions, if necessary. A developer has, within the past seven days granted planning permission to demolish a grade II listed chapel at Mushin. This is an important site because Moremi, the radical female activist, gave her historic speech there. SOC believes that the grant of planning permission was ultra vires since the planning authority, contrary to statute, failed to have regard to the development plan for the area. Advise SOC on whether it has locus standi to seek judicial review on the grant of planning permission.
3. Anya is a staff of National Teachers Training Institute (NTTI). During one of the staff meeting, it was decided that the institute will go to public schools unannounced to check the resumption time of all teachers in the state. Two days to the planned outing, information got to the NTTI that the days of the intended outing have been leaked to the teachers in the public schools. Anya was suspected of leaking out the information. NTTI then set up a four man panel to investigate the issue. The committee was to start hearing on Wednesday. On the close of work on Tuesday, Anya was served a notice to face the panel on Wednesday by 9am on the issue of leaking out official information to the public. On Wednesday at the hearing, Anya informed the panel that he wanted to be represented by a counsel of his choice, but the panel refused. He also found out at the hearing that there was a charge of lateness to work issued against him, which was not on the notice served on him. Lastly, he has identified Orente, his erstwhile girlfriend as a member of the panel. He is sensing a likelihood of bias and has come to you for advice.

Discuss the following issues:

- a. Whether or not Anya is given enough time to prepare his defence
 - b. Whether or not Anya can be represented by a lawyer or any representative
 - c. Whether or not notice given to Anya is adequate and complete
 - d. Whether or not the panel of disciplinary board are personally bias to Anya.
4. What is meant by natural justice? Is there any distinction between quasi-judicial and administrative powers from the angle of applicability of the principles of Natural Justice?
 5. Uptown County council is empowered to grant licenses to street traders and withdraw them, inter alia, for misconduct. It has been the custom of the Council to grant hearings to consider the case proposed revocation of licenses, provided that a written request is received within 14 days of the decision being announced. Under the Cautious Party, previously in control of the Council, such licenses were granted sparingly. The Enterprise Party, now in power, has announced that in six months' time, 50 new licenses are to be granted over a six-week period.

The following occurred:

- a. Dora, a current license holder, is disgruntled by the decision to grant new licenses, fearing such a massive increase in competition, that she requested a hearing from the council. She receives a letter that, normally, only revocation of a license gives rise to a hearing and that, in any event, unprecedentedly low Council funds forbids a hearing. She was also told that the detailed statement of her reasons for opposing the new licenses will not be considered, as the decision has already been made;
 - b. Doro and Buchi receive notification that their licenses are to be revoked for misconduct, subject to their right to put their case against the revocation. Buchi is given a fair chance to state his case at a meeting of the Licensing board. However, he recognises one of the five members of the Board, Bert, as the former husband of Alison; Alison recently left Bert for Buchi in an episode that generated much publicity. The Board orders revocation. After the hearings are over, it emerges for the first time that Bert covertly encouraged Alison to have the affair with Buchi so that he could divorce her and marry his secret, long standing mistress, with whom he is now blissfully happy.
 - c. Doro is unhappy because it was only at the hearing that he was told full details of the case against him; that there was evidence that specific products sold from his stall were unsafe. Previously he had only been told that his license was being revoked on 'health and safety grounds'. The Board orders revocation. Doro is indignant because he claims he has detailed evidence of the safety of these products, which he could have raised in evidence in the hearing, had he known the true grounds of the Council's case.
 - d. Jane is indignant: She has applied for a license to run a stall but she is refused and the Council provided no reason for the refusal.
6. It is often said that judicial review is intolerably uncertain and amounts to little more than a license for judges to interfere arbitrarily with the machinery of government and administration. Discuss.