

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

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CAN THE LOSS OF AN ACADEMIC YEAR BE A PROPORTIONATE PRICE FOR ATTENDANCE SHORTAGES?

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Abstract

Mandatory attendance requirements have long been regarded as an important means of maintaining academic discipline, particularly in legal education. However, the constitutional debate extends beyond the validity of attendance rules themselves. It raises a more fundamental question: can the State constitutionally justify a sanction that effectively costs a student an entire academic year when less restrictive alternatives are available? This article argues that while universities have the authority to prescribe attendance standards, the consequences for non-compliance must satisfy the constitutional principles of fairness, reasonableness, and proportionality. Drawing upon Articles 14 and 21 of the Constitution of India, the doctrine of proportionality, and recent judicial developments, the article examines whether automatic debarment from examinations is a constitutionally justified response to attendance shortages.

The article does not argue against attendance requirements. Instead, it interrogates whether the objective of maintaining academic discipline can be achieved through measures that are less severe but equally effective. It revisits the constitutional limits of academic regulations, arguing that while universities may prescribe standards, the consequences of enforcing those standards must remain fair, proportionate and consistent with constitutional values. Ultimately, the article contends that the legitimacy of attendance regulation depends not merely on the rule itself, but on whether the consequences imposed are proportionate to the objective they seek to achieve.

Keywords

Attendance Regulations, Academic Autonomy, Higher Education, Legal Education, Proportionality

Review of Literature

The jurisprudence and scholarship on attendance in legal education have primarily examined its pedagogical value rather than its constitutional implications. In *Courts on its Own Motion in Re: Suicide Committed by Sushant Rohilla, Law Student of I.P. University*¹, the Delhi High Court departed from the conventional approach by holding that attendance regulations cannot be enforced in a manner that jeopardises a student's academic future or mental well-being. The Court also directed the Bar Council of India to revisit its attendance framework and consider alternatives such as credit for moot courts, internships, legal aid activities, and remedial measures before debarring students. But the Supreme Court has recently stayed the 2025 Delhi High Court ruling that allowed law students to sit for exams despite attendance shortages, emphasizing for legal discipline and warning against colleges becoming lodging facilities. The decision may have drawn the line for now, but whether the Constitution permits educational discipline to come at the cost of an entire academic year remains a question yet to be conclusively answered.

By contrast, *Aman Bansal v. University of Delhi*² reaffirmed judicial restraint in academic matters by refusing to interfere where the student had substantially failed to comply with attendance and examination requirements. Read together, these decisions recognise both institutional autonomy and constitutional limits on academic regulation, but stop short of examining attendance sanctions through a structured proportionality analysis.

Among academic commentators, Professor Martha C. Nussbaum argues that higher education should cultivate critical reasoning and democratic citizenship rather than reward mechanical compliance³, while John Biggs, through his theory of constructive alignment, emphasises that assessment and institutional rules must remain aligned with intended learning outcomes rather than procedural formalities⁴. These works justify meaningful engagement but do not address whether the constitutional validity of attendance sanctions depends upon the availability of less restrictive alternatives.

¹ W.P.(CRL) 793/2017 & CRL.M.As.16639/2017, 8850/2024

² 2026 LiveLaw (Del) 499 (Decided by Delhi HC on May 14, 2026)

³ Martha C. Nussbaum, "Not For Profit: Why Democracy Needs the Humanities", (Princeton University Press 2010)

⁴ John Biggs and Catherine Tang, *Teaching for Quality at University* (4th ed., Open University Press/ McGraw-Hill Education 2011)

Accordingly, the existing literature leaves an important gap. While attendance has been discussed from educational, regulatory, and administrative perspectives, little attention has been paid to whether the loss of an academic year satisfies the constitutional standards of proportionality under Articles 14 and 21 of the Constitution.

Introduction

Universities have long occupied a peculiar position within constitutional democracies. They are not just institutions that enforce rules, nor are they places where anything goes. Their role is to hold both together without suffocating the independence that makes learning possible for all. It is perhaps for this reason that courts have traditionally accorded considerable deference to academic institutions in matters of curriculum, evaluation and attendance. Yet deference does not imply immunity. The law has always looked beyond power on paper than with how that power is wielded.

In recent years, attendance rules in law schools have become a contentious issue and raised broader concerns that reach well beyond whether students show up to class. The issue is not the existence of the rule, but whether the consequences of violating it are commensurate with the purpose the rule is intended to fulfil. If attendance rules are meant to encourage participation, learning and development, should a shortage of attendance carry the price of being barred from examinations and risking the loss of an entire semester or even an academic year?⁵

Much of the criticism directed at attendance requirements rests on the belief that they are paternalistic restrictions imposed on students. This view, however, mistakes the part for the whole. A university is not just an examining body that awards degrees upon the successful completion of tests. They are communities of learning designed to forge what students know, how they think and conduct themselves. As Bertrand Russell said, *"It should be one of the functions of a teacher to open vistas before his pupils, showing them the possibility of activities that will be as delightful as they are useful."*⁶

⁵ Ritwik Choudhury, 'Supreme Court stays Delhi HC direction allowing law students with low attendance to sit for exams' (*Bar and Bench*, 26 May 2026) <<https://www.barandbench.com/news/supreme-court-stays-delhi-hc-direction-allowing-law-students-with-low-attendance-to-sit-for-exams>> accessed 20 July 2026

⁶ Elizabeth Garrett, 'The Socratic Method' (*University of Chicago Law School*, 1998), <<https://www.law.uchicago.edu/socratic-method>> accessed 20 July 2026

Lawyers are, first and foremost, problem solvers, and one of the primary tasks of a law school is to equip students with the intellectual tools required to solve problems whose answers cannot be found in any single textbook. While statutes and precedents may evolve, the habits of reasoning, critical inquiry, and sound judgment remain indispensable.⁷ Viewed in this light, attendance requirements are not devoid of rational justification. They seek to keep students engaged with the academic process and prevent education from becoming nothing more than a race to the examination hall.

Research Methodology

This article adopts a doctrinal legal research methodology. Particular emphasis is placed on Articles 14 and 21 of the Constitution of India, the doctrine of proportionality, and judicial pronouncements concerning attendance regulations and academic autonomy. The study also draws upon policy documents such as the National Education Policy, 2020, the Bar Council of India Rules on Legal Education, and comparative academic literature on student engagement and higher education governance. The research is qualitative in nature and is based entirely on secondary sources, including books, journal articles, law commission reports, case law, policy papers, and other credible academic materials.

The Post-pandemic Shift

Prior to 2020, attendance requirements operated on an unquestioned assumption that a student sitting for a lecture was a student learning. The pandemic turned that assumption on its head. During COVID-19, universities across the world continued assessment, seminars, and even moot court activities through virtual platforms that affected nearly 1.6 billion learners globally. Presence and participation are not always two sides of the same coin. A student may be present in body but absent in mind throughout a lecture, while another may participate substantively in the academic life without ever crossing the classroom threshold. The post-pandemic university has brought this question into sharp focus. It rightly probes why physical presence is still treated as the gold standard, and whether losing an entire semester for absence amounts to a disproportionate consequence in an age where learning travels far beyond the classroom.

Modern educational research recognises that student engagement is not dependent on a single mode of participation.. It extends beyond mere physical presence to include behavioural

⁷ Id.

involvement, cognitive participation, and sustained academic contribution. Accordingly, institutions need not treat attendance as the exclusive indicator of engagement. They can complement it with objective indicators such as performance in continuous assessments, participation in tutorials and seminars, involvement in moot courts, legal aid clinics and research projects, as well as engagement with institutional learning platforms. A balanced approach would assess the substance of academic involvement rather than relying solely on physical attendance.

Consequences of Attendance Shortage and the Need for Alternatives

A student who falls short of attendance requirements may be debarred from examinations, denied academic credits or compelled to repeat a semester. In practical terms, this may snowball into delayed graduation, mounting financial burdens, loss of scholarships and postponed career opportunities. The severity of these consequences begs the question of whether the same ends could be achieved without such a blunt instrument.

Universities may, for instance, employ graded responses. Attendance shortages could result in mandatory remedial classes, additional academic assignments, temporary academic probation, or conditional permission to appear in examinations. Institutions might distinguish between chronic absenteeism and marginal deficiencies. As recognised by the Delhi High Court in its 2025 judgment on law school attendance, not all absences are alike. Universities may therefore take into account whether the absence arose from bona fide, particularly where participation in recognised academic activities such as moot court competitions, legal aid initiatives, research projects, or internships contributes meaningfully to legal education.⁸

The availability of these alternatives does not make attendance-based debarment invalid. It does, however, raise a fair question that is automatic exclusion from examinations always the least restrictive way to maintain academic discipline, or does it sometimes go further than necessary? The point is not whether consequences should exist, but whether the benefit achieved through debarment justifies the severity of the hardship it causes. At its heart, the doctrine of proportionality asks for exactly this careful balancing.

⁸Snakalp Tiwari, 'Attendance Policy and Compliance Article' (*Lawyers Club India*, 7 January 2026) <<https://www.lawyersclubindia.com/articles/attendance-policy-and-compliance-article-18070.asp>> accessed 19 July 2026

Deterrence and its discontents in Attendance Enforcement

The benefit of attendance-based debarment lies in deterrence. The threat of exclusion incentivises compliance and preserves institutional authority. Universities may reasonably contend that attendance requirements would become ineffective if violations attracted only nominal consequences.

Against this must be weighed the impact upon students. The consequences of debarment frequently extend beyond the immediate academic session. A student may lose an entire semester, incur additional educational expenses, face delays in graduation, and encounter setbacks in professional advancement. In legal education, where internships, recruitment cycles, and competitive examinations operate according to rigid timelines, such delays can carry lasting effects.

A Calibrated Model of Attendance Regulation

The future of attendance regulation is unlikely to lie at either end of the spectrum, neither in doing away with attendance requirements nor in enforcing them with steady rigidity. Universities may instead adopt sanctions that are proportionate to the extent of the shortfall rather than resorting to a one-size-fits-all approach. Greater transparency in maintaining attendance records would help nip avoidable disputes in the bud, while condonation policies should rest on clear and consistent principles instead of ad hoc decision making. Above all, attendance policies should tell apart a lack of commitment from participation in legitimate learning experiences beyond the classroom.

The future of legal education cannot be built on yesterday's assumptions about physical presence. Merely occupying a seat in the classroom for a prescribed number of hours is no guarantee of meaningful learning. Modern legal education increasingly unfolds through hybrid teaching, simulation exercises, digital collaboration, AI assisted research, and experiential opportunities beyond the lecture hall. At the same time, abandoning attendance requirements altogether would be an equally misguided response. The better course lies in striking a careful balance between flexibility and accountability. Attendance policies may therefore call for refinement rather than repeal. Universities could adopt differentiated norms for theoretical and practical courses, recognise clinical legal education, research projects and internships for academic credit, permit monitored hybrid participation where appropriate, provide structured

mentorship and counselling for students facing genuine hardships, and consciously distinguish between AI-integrated and AI-resistant pedagogical settings. Above all, the focus should shift from merely counting who is present to evaluating who is genuinely engaged.⁹

Judicial Approaches

Attendance policies may need fine-tuning rather than a clean slate. Universities and regulators such as the Bar Council of India should recognise that legal education no longer begins and ends within the four walls of a classroom. Students today acquire essential skills through internships, moot courts, legal aid work, research projects and other forms of experiential learning. Clinging to a purely seat-based approach risks being myopic in an educational landscape that has rapidly evolved. A more sensible framework would distinguish between theoretical and skills-based courses, give due credit to approved practical engagements, and look beyond mere attendance registers to assess whether a student has genuinely participated in the learning process.

The Delhi High Court's decision in *Courts on its Own Motion in Re: Suicide Committed by Sushant Rohilla, Law Student of I.P. University*¹⁰ marked an important shift in the conversation around attendance regulation. Instead of viewing attendance shortages through a narrow disciplinary lens, the Court looked at the bigger picture by connecting them with student welfare, fair academic administration, and institutional accountability. In many ways, it signalled that universities should not wield the stick before extending a helping hand. At the heart of the Court's directions lay the principle of proportionality, that a rule intended to foster participation ought not, in the ordinary course, exact so heavy a price that it imperils a student's academic future. Equally significant was the recognition that institutions have a responsibility to act proactively by maintaining transparent attendance records, providing timely warnings, offering counselling, and exploring supportive interventions before resorting to punitive measures.

Conversely, the Delhi High Court's ruling in *Aman Bansal v. University of Delhi*¹¹ demonstrates the limits of judicial intervention where essential academic requirements remain

⁹ Dr. Suhasini, 'Attendance Rule And Future Of Legal Education: Why Supreme Court's Concern Matters' (*Live Law*, 25 May 2026) <<https://www.livelaw.in/articles/attendance-rule-future-legal-education-supreme-court6-concern-matters-535500>> accessed 19 July 2026

¹⁰ Id.

¹¹ Id.

unmet. By declining to allow a law student to advance despite clear non-compliance with attendance and examination requirements, the Court reaffirmed that judicial review is not a licence to second-guess academic policy or dilute institutional standards. When viewed alongside Sushant Rohilla, a more nuanced picture emerges. The courts are not questioning the validity of attendance norms per se, they are scrutinising whether their enforcement is fair, rational, and free from arbitrariness. The constitutional inquiry, therefore, is whether the sanctions they impose are calibrated to the educational purpose they seek to achieve and consistent with the principles of procedural fairness and proportionality.

The Constitutional Measure of Educational Sanctions

The constitutional question is not whether universities may prescribe attendance requirements. They undoubtedly possess the authority to regulate academic standards and maintain institutional discipline. The real issue is whether the State can constitutionally justify a sanction that effectively results in the forfeiture of an academic year when less restrictive alternatives are reasonably available. Since universities established or recognised by the State discharge public functions, their regulatory decisions must satisfy constitutional standards under Articles 14 and 21 of the Constitution.

The Supreme Court has consistently held that State action must not only pursue a legitimate objective but must also adopt means that are reasonable, non-arbitrary, and proportionate. In *Modern Dental College & Research Centre v. State of Madhya Pradesh*¹² and reaffirmed by the Constitution Bench in *Justice K.S. Puttaswamy (Retd.) v. Union of India*¹³, the Court recognised proportionality as an essential constitutional standard requiring that where multiple measures are capable of achieving the same objective, the one imposing the least restriction should ordinarily be preferred. Applied to attendance regulation, the question is straightforward that if academic discipline can be secured through remedial classes, academic probation, additional assignments, conditional examination permission, or other calibrated measures, can the State justify a sanction that results in the loss of an entire semester or academic year?

Article 14 is not confined to treating like cases alike, it also guards against treating unlike situations alike. An attendance policy that imposes the same consequence on every student, irrespective of whether the deficiency is marginal or substantial, intentional or unavoidable,

¹² (2016) 7 SCC 353

¹³ (2017) 10 SCC 1 (India)

risks overlooking material differences. A student who falls short by a few classes after participating in recognised academic activities stands on a different footing from one who has consistently disengaged from the course. As the Supreme Court observed in *E.P. Royappa v. State of Tamil Nadu*¹⁴ and later reaffirmed in *Shayara Bano v. Union of India*¹⁵, arbitrariness is the very antithesis of equality. Constitutional equality therefore requires more than uniform application of a rule, it requires the rule to operate with reason. Equality is not achieved by measuring every student with the same ruler when their circumstances are fundamentally different.

Article 21 requires every State action affecting an individual's rights to be fair, just, and reasonable. Although higher education is not an absolute fundamental right, decisions that substantially affect a student's educational journey cannot escape constitutional scrutiny. A sanction that compels a student to repeat an entire semester or academic year may postpone entry into the profession, increase financial burdens, disrupt competitive examination timelines, and, for many students, place legal education beyond practical reach. These consequences demand a decision-making process that is responsive rather than mechanical. Constitutional fairness requires institutions to consider whether the objective of academic discipline can be achieved without placing a student's educational journey on hold. Rules may be general, but justice often lies in recognising the individual case.

This is not an argument against attendance norms. It is an argument that constitutional governance demands proportional sanctions. The legitimacy of educational regulation therefore depends not only upon the objective of preserving academic discipline but equally upon whether the means adopted unnecessarily burden the student's right to continue higher education.

Solution

The solution lies not in abandoning attendance requirements but in fundamentally rethinking the manner in which they are enforced. As the Delhi High Court observed in *Courts on its Own Motion in Re: Suicide Committed by Sushant Rohilla, Law Student of I.P. University*¹⁶, the regulatory framework governing legal education must evolve in harmony with the flexibility

¹⁴ (1974) 4 SCC 3, AIR 1974 SC 555

¹⁵ (2017) 9 SCC 1, AIR 2017 SC 5609

¹⁶ Id.

envisaged under the National Education Policy, 2020. The Court questioned whether Rule 12 of the Bar Council of India Rules of Legal Education, 2008, which makes minimum attendance a precondition for appearing in examinations, remains consistent with an educational ecosystem that increasingly values multidisciplinary learning, online instruction, and experiential legal education. It accordingly directed the Bar Council of India to revisit the existing framework in consultation with stakeholders and to recognise activities such as moot court competitions, debates, model parliaments, legal aid work, research projects, and internships as meaningful components of legal learning.¹⁷

Equally significant was the Court's shift from punishment to prevention. Instead of treating attendance shortage as a ground for automatic exclusion, it favoured institutional support through weekly online attendance disclosures, periodic communication with students and parents, remedial classes, home assignments, counselling, and recognition of practical legal work as compensatory attendance. Pending comprehensive reforms, it directed that students should not be detained from examinations solely on account of attendance shortage and that, where necessary, only proportionate academic consequences such as a limited reduction in marks or CGPA may be imposed. The Court also suspended the operation of the BCI's biometric attendance circular, observing that excessive technological surveillance in classrooms may aggravate psychological distress rather than improve academic engagement. The responsibility of universities extends beyond enforcing rules. While the Massachusetts Supreme Judicial Court in *Nguyen v. Massachusetts Institute of Technology*¹⁸ rejected the traditional in loco parentis doctrine and held that universities are not general custodians of student welfare, it nevertheless recognised that institutions must act where they possess actual knowledge of a student's suicide risk.¹⁹ The broader lesson emerging from comparative jurisprudence is that universities cannot wait for a crisis to unfold. They must create systems capable of identifying vulnerability at an early stage through accessible counselling, responsive grievance redressal mechanisms, timely academic intervention, and supportive institutional practices. Reflecting this approach, the Delhi High Court shall also mandatorily direct every

¹⁷ Arunima, 'Mandatory Attendance Cannot Cost a Student's Life: Delhi High Court directs nationwide reform in legal education after Sushant Rohilla case' (SCC Online, 6 November 2029) < <https://www.scconline.com/blog/post/2025/11/06/mandatory-attendance-delhi-high-court-legal-education-reform-sushant-rohilla-case-legal-news/> >

¹⁸ 479 Mass. 436, 96 N.E.3d 128 (2018)

¹⁹ Himanshu Mishra and Prakhar Jha, 'The rule that broke the student: Attendance, anxiety and what must change' (Bar and Bench, 8 November 2025) < <https://www.barandbench.com/columns/the-rule-that-broke-the-student-attendance-anxiety-and-what-must-change> >

institution to establish effective Grievance Redressal Committees under the UGC (Redressal of Grievances of Students) Regulations, 2023, with meaningful student representation and access to professional mental health support. After all, prevention is better than cure, educational institutions best fulfil their role by creating an environment where students are supported before discipline becomes necessary.

Conclusion

The question is not whether attendance matters, it unquestionably does. Constitutional governance requires more than good intentions, it requires that the means adopted bear a reasonable relationship to the end sought. To borrow an old proverb, one should not burn down the house to catch a mouse. Attendance rules are meant to cultivate learning, not become an obstacle to it. Where alternatives such as academic support, practical learning credits, graded penalties, and counselling can secure the same objective, automatic debarment becomes difficult to justify. The legitimacy of attendance regulation, therefore, will not be measured by the rigidity of its rules, but by its ability to uphold discipline without losing sight of the very purpose of education to enable students to learn, grow, and ultimately graduate as competent professionals.

Ultimately, the Constitution does not forbid discipline, it forbids disproportion. Where a less restrictive measure can achieve the same educational objective, the loss of an academic year ceases to be a matter of academic policy and becomes a question of constitutional justification, one that must be answered before such a severe consequence is imposed.