

Constructing of the Constitutional Theoretical Foundation of School Autonomy

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Abstract

School autonomy is a mechanism of state's passing down authorities of school management in the administrative law system. In Germany, the discussions of school autonomy began in 1990s and gradually gained its popularity. Those terms often used in discussions of school autonomy, such as self-reliance of schools, self-determination of schools, self-responsibility of schools, or self-management of schools are no longer slogans of educational policies in Germany. Most of these school-autonomy-like concepts have been implemented and incorporated by relevant law and regulation with regarding to the educational administration of German schools. As a result, these school-autonomy-like concepts in education are turned into legal concepts and become the legal research objects. In Taiwan, it is common to education scholars to use the term, school-based management, when discussing the issues of school autonomy. School-based management, originated in the United States and prevails in English speaking countries, has been the core subject of educational reforms and strategies in major countries since late 1980s. Influenced by the wave of the educational reform, the educational law and regulation and policies in Taiwan all echoes the concept of school-based management. The contents of the above mentioned educational law and regulation all involve the substances of school-based management and can be said as the radiation of legalizing the

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concept of school-based management. However, along with the process of legalization of educational administration, the education concepts will be integrated into legal concepts and become the research subjects of educational law. To begin with the educational theory of self-fulfillment and to integrate with theoretical basis of educational law, this Article attempts to base on the concept of school autonomy to construct the constitutional theoretical basis of school autonomy. Through the discussions of the fundamental right to education as the organizational and procedural bases, this Article attempts to sculpture substantively the protected interests of school autonomy and to construct the basis of the legalization of school autonomy.

Keywords: school autonomy, school-based management, self-managing school, self-fulfillment, fundamental right to education, principle of rule of law, principle of democracy, educational reform