

Seminar Series 2018-19**29th November 2018, Room 432, 1315-1415****Lunch will be available from 1245-1315****RSVP to CR&DALL****Legal Issues in Education –
Comparative approaches in education and law****Professor Hans G. Schuetze, University of British Columbia, Canada**

Increasingly over the last 30 years or so, legal issues in education have come to the fore in many countries. Examples abound: teachers and administrators of schools, post-secondary educations and other places of formal instruction and learning have to deal with disorderly student conduct that was formerly dealt with pedagogical means and sanctioned, in severe or repeat cases, by disciplinary action, but now fall into the responsibility of the police, various authorities dealing with youth, or the courts. Parents discontent with the treatment of their children by the teachers, or with the grade their children have received, complain to the school leadership and request reversal of the teachers' decisions – and initiate court action if their demands are not satisfied. Universities revoke PhD degrees upon the discovery that the degree holder had plagiarized substantial parts of their dissertation. There are many more examples – and the number of cases reaching the courts is climbing.

As a reaction, many education faculties have recently added courses on legal issues to their teacher training curricula; increasingly also, law faculties now have similar courses or seminars on their books to prepare future lawyers for work in this field. Legal texts abound on the law of schools, post-secondary institutions, vocational training, rights of students and parents, the responsibility and rights of teachers and administrators, the right level of financing of education, the responsibility of institutions for a safe environment of the learners, and many other themes on the interface of education and the law.

There is very little comparative literature on the subject – not least due to the inherent difficulties with methodology. As the field needs both a pedagogical or sociological perspective, on the one hand, and a legal one, on the other, the methodology of studying and analyzing legal issues in education must take into account, and be informed by both the methods of comparative education and of comparative law (or 'comparative jurisprudence'). Although there are many similarities –not astonishingly as both pedagogy, sociology and jurisprudence belong to the scientific family of 'social studies' – there are also some significant differences concerning the methodology and theoretical frameworks of the two fields. The most important difference is the authoritative nature of the law, a system of rules that order human behavior, relations of citizens among each other and with the state as well as the organization of society. Different from philosophy or sociology of law, legal systems are determined by the legislation (or

delegated rule-making) and judicial precedent, enforced by various public agents, for example administrative agencies, the police and the courts. Yet this authoritative system is not static but in constant change reflecting changes of the respective society and value systems.

I shall address this and other differences between comparative law and education, exemplified by a few concrete cases of educational law. These comparative examples will make reference to three jurisdictions I am familiar with, Germany (where I studied law, worked as a lawyer, and taught a university course on law and education), the US (where I also studied law and worked as an intern in a law firm), and Canada (where I taught, as a professor in UBC's Faculty of Education, several graduate classes on legal issues in education).

The presentation will be based on legal and educational literature, laws and regulations, and court decisions from these three countries.

Hans Schuetze holds a PhD in international and comparative law (University of Göttingen, Germany), LL.M. (University of California at Berkeley) and is a member of the German bar. After work as a lawyer in private practice and in the public service in Hannover, Germany, from 1977 to 1986 he was a policy analyst, Centre for Educational Research and Innovation (CERI) of the Organization for Economic Cooperation and Development (OECD), Paris, France. From 1991-2006 he was a Professor of Higher Education Research and Policy, and Research Associate, Centre for Policy Studies in Higher Education and Training, University of British Columbia, Vancouver, Canada. From 2007 to 2017 he has been lawyer in private practice (specializing in legal issues in education) and part time lecturer at the University of Oldenburg. From 2017 on visiting professor at the Renmin University of China at Beijing, China. He has been closely associated with the University of Glasgow as a honorary senior research fellow in Education and as a Board member of the PASCAL Observatory over the last two decades.