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# TRUTH-TELLING, INCOMMENSURABILITY, AND THE ETHICS OF GRADING

Gary Chartier\*

As every teacher knows, grades matter to students. It is not altogether surprising that students sometimes bring concerns about their grades to court. Student challenges to institutional grading decisions have consistently been unsuccessful.<sup>1</sup> Courts have characteristically been unwilling to entertain such claims both because of their perceived triviality<sup>2</sup> and because judges lack “the authority. . . [and] the expertise to prescribe academic standards . . .”<sup>3</sup> On the other hand, “[n]o teacher has a fundamental right to hand in random or skewed grades. . . .”<sup>4</sup> An educational institution has a legally recognized interest “in ensuring that its students receive a fair grade,”<sup>5</sup> and it is difficult to see why students might not be thought in principle to have a similar interest. Fairness issues arise with particular force when they concern, not subjective grading decisions made by instructors about individual student exercises, but rather general policies adopted by instructors and institutions. It would be unreasonable for a judge to assume under ordinary circumstances that she could improve on a teacher’s judgment regarding the merits of an essay prepared for an English class. However, it might be easier for

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1. See e.g., *Dilworth v. Dallas Community College Dist.*, 81 F.3d 616 (5th Cir. 1996); *Attia v. Keller*, 703 F.2d 558 (6th Cir. 1982); *Raymon v. Alword Indep. School Dist.*, 639 F.2d 257 (5th Cir. 1981).

2. *Raymon*, 639 F.2d 257.

3. *Axelrod v. Phillips Acad.*, 46 F. Supp. 2d 72, 82 (D. Mass. 1999).

4. *Wozniak v. Conry*, 236 F.3d 888, 891 (7th Cir. 2001).

5. *Keen v. Penson*, 970 F.2d 252, 258 (7th Cir. 1992)

the judge to assess the appropriateness of a policy calling for a reduction in the grade of any student who has, for instance, consumed alcohol; “[l]ess judicial deference, although still a considerable amount, is due those ‘academic’ decisions concerning academic and pedagogical policies of the university as to which reasonable educators can and do differ.”<sup>6</sup> In 1983, the Texas Court of Appeals rejected the claim that “the practice of reducing grades for nonacademic disciplinary reasons was constitutionally unreasonable and impermissible.”<sup>7</sup> However, other judges have not viewed this practice so kindly. “The final grade constitutes a record that purports to measure academic attainment,” wrote a dissenting judge in the 1976 Illinois case of *Knight v. Board of Education*.<sup>8</sup> “[P]rospective employers as well as institutions of higher learning concern themselves with true academic achievement,”<sup>9</sup> he observed, thus implying that grades are expected to serve as sources of information about academic performance rather than moral character. Similarly a federal district court concluded, in *Smith v. School City of Hobart*, that:

[f]or college entrance and other purposes... [a substantial grade reduction for nonacademic reasons] would result in a clear misrepresentation of the student’s scholastic achievement. Misrepresentation of achievement is equally improper and, we think, illegal whether the achievement is misrepresented by upgrading or by downgrading, if either is done for reasons that are irrelevant to the achievement being graded. For example, one would hardly deem acceptable an upgrading in a mathematics course for achievement on the playing field.<sup>10</sup>

On this basis, the court found that a “rule that calls for a grade reduction to discipline nonacademic conduct is illegal, and null and void.”<sup>11</sup>

While courts may, in general, continue to decline to hear

6. Thomas A. Schweitzer, *Academic Challenge Cases: Should Judicial Review Extend to Academic Evaluations of Students*, 41 Am. U.L. Rev. (1993).

7. *New Braunfels Ind. Sch. Dist. v. Armke*, 658 S.W.2d. 330, 331 (Tex. App. 1983)

8. *Knight v. Bd. of Educ.*, 348 N.E.2d 299, 305 (Ill. App. 1976). According to the *Knight* majority, a policy that precluded instructor discretion might “justify court intervention.”

9. *Id.* at 303.

10. *Smith v. Sch. City of Hobart*, 811 F.Supp. 391, 397-98 (1993).

11. *Id.* at 399.

grading-related cases, and while there are surely good reasons for them to refuse to do so, legal disputes over academic evaluation will undoubtedly continue.<sup>12</sup> A variety of legal theories support the conclusion that judicial assessment of some educational decisions is appropriate.<sup>13</sup> The law of contract has provided perhaps the firmest basis for students' claims.<sup>14</sup> A plausible contractual argument can be made that "[a] registered student has a legally protected interest in his college education,"<sup>15</sup> and that when she enrolls, "a student. . . expects that the school [at which she registers] will treat her fairly," which means, among other things, that she will not be subjected to "arbitrary grading."<sup>16</sup>

The number of cases in which courts ought to entertain claims about academic evaluations are few, but normative questions about grading policies are frequent and unavoidable. Lawyers and judges may only rarely need to think critically and reflectively about the basis for grading policies; instructors, institutions, and students need to do so far more often. My goal here is not to determine what legal issues related to grading deserve consideration by the courts, but rather to articulate a normative framework that might reasonably guide assessments of the reasonableness of grading policies. My central contention is that an instructor has an obligation to grade accurately, to give to each student a grade that reflects the student's competence with respect to the subject matter of the course rather than any other factor. She should do so in accordance with what I call the *principle of academic exclusivity* (PAE), which requires that, as far as possible, all nonacademic factors be excluded from consideration when instructors determine grades.<sup>17</sup> In this

12. See Jayme L. Butcher, Comment, *MIT v. Yoo: Revocation of Academic Degrees for Nonacademic Reasons*, 51 Case W. Res. L. Rev. 749 (2001); Curtis J. Berger & Vivian Berger, *Academic Discipline: A Guide to Fair Process for the University Student*, 99 Colum. L. Rev. 289 (1999); Dina Lallo, *Student Challenges to Grade and Academic Dismissals: Are They Losing Battles?*, 18 J.C. & U.L. 577 (1992).

13. See Berger, *supra* n. 11, at 291 nn. 4–6 for a range of alternatives.

14. *Id.* at 291–292. Berger and Berger are concerned with discipline rather than grading and might well not endorse the conclusions for which I argue in this article.

15. *Id.* at 291.

16. *Id.* at 318.

17. The PAE embodies (at least some of) what Gregory F. Weis calls "the conventional view of grading." See Gregory F. Weis, *Grading*, 18 Teaching Philos. 3 (1995). The "conventional view," for instance, "takes no account of what the student has had to do, of how hard the student has had to work." *Id.* at 10. It also "ignores the

essay, I elaborate and defend this principle, explaining that it is rooted in two simple obligations: first, a duty to tell the truth, and second, to respect the incommensurability of subject-matter competence. I suggest reasons we ought to be suspicious of two alternative positions, which I label *academic consequentialism* and *academic retributivism*. And I argue that the PAE renders a number of common grading practices inappropriate because these practices take into account factors other than students' *subject-matter competence* (SMC).<sup>18</sup> These factors, I suggest, are relevant to the broader goals of education, and it is entirely appropriate that institutions evaluate students' performance with respect to many, perhaps all, of them. Student behaviors and character traits unrelated to SMC are certainly the business of educational institutions. However, any institutional evaluation of student performance that does not directly facilitate the estimation of SMC should not influence students' *grades*. Grades should reflect SMC alone.

## I. THE PRINCIPLE OF ACADEMIC EXCLUSIVITY

The principle of academic exclusivity, the theory that grades should reflect only a student's SMC, follows from the duty to (a) tell the truth and (b) respect the incommensurability of SMC and a variety of other factors that sometimes influence students' grades.

### A. *The PAE and Truth-Telling*

There is a general obligation to avoid deception—the intentional creation or encouragement of false beliefs in others.<sup>19</sup> The obligation to avoid deception to tell the truth

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classroom experience itself as a factor in a student's grade," and thus implicitly precludes taking attendance and participation into account. *Id.* My argument in this article may be seen, in part, as an attempt to formalize this view and spell out its implications.

18. See the detailed discussion of this concept, *infra*. Randall R. Curren, *Coercion and the Ethics of Grading and Testing*, 45 *Educ. Theory* 425 (1995), uses language that suggests the appropriateness of the expression "subject-matter competence," but I do not believe he ever employs this expression himself. He says, for instance, that a "student's act of signing up for . . . [a] course could be understood to entail an admission of subject-specific and level-specific noncompetence." *Id.* at 435.

19. Perhaps the standard contemporary philosophical analysis of lying is Sissela Bok, *Lying: Moral Choice in Public and Private Life* (Pantheon Books 1978). On "lying

reflects the value of personal autonomy—avoiding deception is a way of permitting each person to make up her own mind about possible evaluations or courses of action. It also fosters trust and community between people. Given this obligation, instructors must give grades that accurately reflect students' abilities in the subject matter taught.

A grade is *accurate* to the extent that it permits someone to estimate the extent of a student's knowledge and skills in a given area. It is *inaccurate* to the extent that it leads someone to believe that she knows more or less than she does or that she can do more or less than she can. A good grade is not justified by a student's hard work; a poor grade is not justified by a student's sloth.<sup>20</sup> More generally, a grade is not warranted by a judgment regarding a student's moral character, her helpfulness or respectfulness in class, or anything apart from her SMC.<sup>21</sup>

Grades appear in general to offer academic rather than personal information.<sup>22</sup> Giving a grade in a particular course is

and cunning . . . [as] forms of violence," see Jean-Paul Sartre, *Notebooks For An Ethics* 195–204 (David Pellauer trans., U. of Chicago Press 1992). According to Sartre, lying represents the objectification and subjugation of the other. When I lie, I assert my authority over the other; and once I have conceded that I can lie, I imply that I am her or his master even if I do not exercise my imagined privilege. See also, Bernard Gert, *Morality: A New Justification of the Moral Rules* 126–27 (rev. ed. of *The Moral Rules* 2d Torchbook ed., Oxford U. Press 1988); Leonard Nelson, *System of Ethics* 151–55 (Norbert Guterman trans., Yale U. Press 1956); Charles Fried, *Right and Wrong* 54–78 (Harv. U. Press 1978); Alan Donagan, *The Theory of Morality* (U. of Chic. Press 1977); Alan Gewirth, *Reason and Morality* (U. of Chi. Press 1978); and T.M. Scanlon, *What We Owe To Each Other* (Belknap Press of Harv. U. Press 1998).

20. I regretfully disagree—on this issue—with “luck egalitarianism” as described and, on a qualified basis, defended by Francis Schrag, *From Here to Equality: Grading Policies for Egalitarians*, 51 *Educ. Theory* 63 (2001). For the luck egalitarian, because talent is a product of luck, we should minimize the effects of talent on social rewards. “[I]f a student who has produced a paper with enormous effort receives a higher grade than a student who has produced a paper with little effort, this is just *even when the second paper is higher in equality than the first . . . ?*” *Id.* at 70. According to Schrag, the luck egalitarian will emphasize that it is important to distinguish “grading the paper” from “grading the student.” *Id.* at 70. But (and Schrag appears to be sensitive to this concern) we are interested in the paper precisely because we are interested in the student. A transcript reader cares about a student's grade in a given class because she wants to know something about the student's SMC, not because she's interested in how much effort a student has expended.

21. As James Terwilliger, *Assigning Grades—Philosophical Issues and Practical Recommendations*, 10 *J. of Research & Dev. in Educ.* 21, 22 (1977), observes, a grade is not a reflection of “the amount . . . [of] ‘effort’ expended, the student's work habits, attitude, character traits (honesty, dependability, etc.) nor personality traits (cheerful, cooperative, etc.).”

22. Steven M. Cahn, *Saints and Scamps: Ethics in Academia* 107 n. 4 (Rowman &

a communicative act that provides prospective employers and educational institutions to which the student may apply with information regarding the student's competence in the particular subject matter of the course.<sup>23</sup> This understanding of what a grade is supposed to do follows from the role grades actually play in our society and the impersonal and generally inflexible character of the processes by which they are ordinarily interpreted. A human resources specialist or a graduate school admissions committee chair reviewing a student's transcript will likely understand a grade appearing on the transcript as primarily an index of the student's academic performance.<sup>24</sup>

The fact that transcript readers know that nonacademic factors may influence grades is often used to legitimize an instructor's decision to base a grade on factors other than SMC. Arguably, an instructor need not deceive most transcript readers if she allows such factors to play a limited role in determining a grade.<sup>25</sup> But there is still good reason for educators to avoid basing grades on nonacademic factors in the interest of accurate communication. Transcripts based solely

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Littlefield 1986), plausibly argues that "[t]hose who believe it important to recognize formally a student's level of effort or improvement should favor awarding supplementary grades for these special purposes rather than seeking to distort the recognized meaning of grades, thereby undermining their ordinary uses."

23. See *Knight*, 348 N.E.2d 299 at 302; *Smith*, 811 F. Supp. 391 at 397-398; Schrag, *supra* n. 20, at 68-69, 72; Kenneth A. Strike & Jonas F. Soltis, *The Ethics of Teaching* 25 (Teachers C. Press 1985); Cahn, *supra* n. 20, at 107 n. 4. As these examples suggest, the available empirical evidence regarding the assumptions people make about the meanings of grades is largely anecdotal. One more rigorous empirical inquiry adds somewhat to our understanding of the "consequential validity" of grades—see generally Patricia A. Bigham Baron, presentation, Consequential Validity for High School Grades: What is the Meaning of Grades for Senders and Receivers (Am. Educ. Research Assn., New Orleans, La., Apr. 24-28, 2000) ERIC 445051. For the idea of consequential validity, see generally Samuel J. Messick, *Validity*, in *Educational Measurement* 13, 13-103 (Robert L. Linn, 3d ed., Macmillan Publ. Co. 1989).

24. Schrag plausibly identifies as a desideratum "of any ethical grading policy" the requirement that grades "not convey deceptive information to those who receive them." He explains: "Grades typically send signals to a variety of audiences in addition to the students themselves: prospective employers, college or graduate schools' admissions committees, and parents include the most important. Most readers of transcripts are likely to interpret grades and transcripts in fairly predictable ways. When, for example, a college admissions committee sees high school transcripts recording Jack as having earned a B in world history and Jason an A in the same class, committee members will infer that the quality of Jason's work was superior to Jack's." Schrag, *supra* n. 20, at 68-69.

25. See Baron, *supra* n. 23, at 31-32.

on academic performance are already difficult to interpret.<sup>26</sup> Transcript readers generally lack evidence regarding the *particular* nonacademic factors at play in determining a particular grade or the weight given to any of these factors.<sup>27</sup> And there appears to be no consensus among the diverse groups of people who rely on the information contained in transcripts regarding the weights they expect instructors will give—or believe instructors should give—to nonacademic factors when determining grades. The lack of a generally agreed-upon set of factors other than SMC that may contribute to the determination of grades clearly adds to the difficulties already associated with transcript interpretation.<sup>28</sup> Assumptions about the appropriate use of nonacademic factors in grading decisions are unsystematic and variable; those who do not share an instructor's or institution's judgments about the ways in which nonacademic factors should influence grades will have difficulty disregarding the influence of these factors when interpreting grades.

26. Craig Kinzer plausibly suggests that, in an ideal world, a transcript would therefore include the mean, median, mode, and standard deviation for each course, teacher, and department to which it refers, for a period from the year before to the year after the one in which any course to which it refers was taken. As he notes, this would, regrettably, be too much information to be contained conveniently in a conventional transcript. Of course, web-based delivery of academic information might make providing data like these possible. According to Steven Cahn, "... at a number of colleges, ... transcripts now include not only a student's course grade, but also the average grade of all students in the course." Cahn, *supra* n. 22, at 31.

27. Suppose a student, Alex, receives an F in a chemistry class because he may be responsible for an explosion in a chemistry lab. "Course grades ... are normally based on knowledge of subject matter. Anyone who sees Alex's transcript will conclude that he failed to learn chemistry, not that he is being punished." Strike & Soltis, *supra* n.23, at 25

28. See Baron, *supra* n. 23, at 13–14, 21, 28. Parents, high school students, high school teachers, high school guidance counselors, and college admissions officers "are in reasonable agreement about the meaning of grades. Furthermore, when these groups look at a set of grades on a transcript and consider college aptitude, there is a lot of similarity across groups." *Id.* at 27. However, it is possible that college admissions officers "seem to read effort and improvement into grades and ... think these ought to count ... ." *Id.* at 28. Though admissions officers are evidently prepared to assume that nonacademic factors influence grades, they seem to overestimate the impact of these factors on grading decisions and they lack information that would help them correct their somewhat inaccurate assumptions.

Baron's study provides no information regarding the behavior or assumptions of college and university teachers, graduate school admissions officers, or employers of any sort; I am inclined to hypothesize that the perceived and intended influence of nonacademic factors declines at the baccalaureate and post-baccalaureate levels, and that employers are less inclined than admissions officers to assume or prefer that grades reflect the influence of such nonacademic factors.



An instructor assigning a grade that does not reflect a student's SMC may not intend to deceive or to convey an inaccurate message to others; she may do so believing that transcript readers may understand the grade as she intends it: a response to something other than the student's SMC. At minimum, however, even if she does not intend to deceive, she must understand the risk that she will be misunderstood but be prepared to accept that risk because of some other good she seeks to achieve by assigning an inaccurate grade. However, the risk she is taking is great and the potential injury to the student and to transcript readers is considerable. An application of the "Golden Rule" test—would she be prepared for anyone else to suffer a comparable harm under similar circumstances because of the operation of a general principle permitting a choice like hers? Would she be prepared to suffer similar harm herself?<sup>29</sup>—might well lead her to doubt that her action is justified.

Telling the truth when assigning grades means, at the very best, reducing the influence of nonacademic factors to a minimum. An instructor can reduce the risk of misleading transcript readers even further by declining to base grades on nonacademic factors at all. Even though some transcript readers may expect grades to be based on nonacademic factors, the odds of confused communication between instructors and transcript readers are arguably lowest when instructors base grades exclusively on SMC.

### *B. The PAE and Incommensurability*

Some transcript readers may tolerate, or even welcome, instructors' willingness to consider nonacademic factors when determining grades. Taking such factors into account, even if doing so has the potential to increase confusion or misunderstanding is not always deceptive. However, there is a further reason to base grades solely on SMC: academic and nonacademic factors are incommensurable. They are sufficiently different that it makes no sense to measure them on the same scale. There is nothing wrong with evaluating a student's character—moral or otherwise—and communicating

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29. On applying the Golden Rule test, see e.g. John Finnis, *Commensuration and Public Reason*, in *Incommensurability, Incomparability, and Practical Reason* 215, 227–228 (Ruth Chang ed., Harv. U. Press 1997).

the results of this evaluation to others; doing so may actually be quite helpful to prospective employers and to other academic institutions. However, an evaluation of a student's character is not the same thing as an evaluation of her SMC. It is no more meaningful to collapse the two than it would be to add a student's height to her shoe size.<sup>30</sup>

Recognizing the incommensurability of SMC and character or moral conduct is no different than acknowledging that SMC is not the same thing as a student's friendliness, good looks, or willingness to offer money or sexual favors for a better grade. One reason we as a society object to grades that are extorted in return for money or sex is because we recognize the coercive implications of such trades. Just as importantly, we also object to such actions because we believe that money, sex, charm, and an agreeable temper aren't the same thing as, and can't be combined with or collapsed into, SMC. These objections are different in nature, and fairness demands that they be evaluated differently. Someone who believes that it is inappropriate to give a student a good grade because she is friendly on the view that friendliness is not the same thing as SMC is logically committed to the view that it is also inappropriate to give a student a good grade because she has performed an act of tremendous bravery on a class trip, or anywhere else. Taking incommensurability seriously means keeping evaluations of everything other than SMC distinct from grades.

### C. *Subject-matter Competence*

Following the principle of academic exclusivity (PAE) requires that grades reflect SMC. Educational institutions are rightly concerned with all sorts of things other than SMC, and

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30. On incommensurability, see e.g. *Incommensurability, Incomparability, and Practical Reasoning* (Ruth Chang ed., Harv. U. Press 1997); Elizabeth Anderson, *Value in Ethics and Economics* (Harv. U. Press 1993); Nola J. Heidlebaugh, *Judgment, Rhetoric, and the Problem of Incommensurability: Recalling Practical Wisdom* (U. of S.C. Press 2001); John M. Finnis, *Natural Law and Natural Rights* 95–97, 110–118, 131–132 (Oxford U. Press 1980).

An objector might suggest that scores on different kinds of exercises—essay and multiple-choice examinations, say—are also incommensurable. And it is certainly true that different kinds of exercises require students to exhibit somewhat different cognitive skills. However, while commensuration of results from disparate exercises need not be unfair, since all such exercises have in common the purpose of facilitating the predicting SMC.

they can and should find a range of mechanisms designed to express their concerns. The PAE simply dictates that nonacademic concerns not be expressed using grades.

A student possesses SMC at a given level with respect to the content of a Calculus I course, for instance, if she understands the concepts explored in the course at the relevant level and has mastered the skills the course is designed to help her acquire at that level. Her actual academic performance is not an infallible measure of her SMC. Performance on *some* exercises has no tendency to tell us about SMC. On occasion, even if exercises have been designed to provide useful information about SMC, an instructor may possess other evidence regarding SMC at least as useful as that provided by performance on any particular exercise or array of exercises. Therefore the principle of academic honesty dictates that an instructor should make every effort within reason to provide grading exercises that accurately portray a student's SMC.

Grades should be understood to reflect SMC because transcript readers use them, in general, to assess SMC. Psychometricians speak of a person's "true score": the score she would obtain on a perfect test of her ability, skill, or knowledge of a certain concept or subject area. Someone's performance on an individual test is thought to reflect closely her actual subject-matter competence depending on the test's accuracy. A student's performance on an individual test is thought to approximate more or less closely to her true score depending on the test's accuracy. Her test performance is used, in effect, to estimate her true score. (Thus, a "standard error of measurement" will be calculated for any typical widely-used standardized examination in order to help anyone interpreting a score on the examination to estimate how close to the test-taker's true score her actual score is likely to fall.) By analogy, we may say that a transcript reader hopes that, when she reviews a student's transcript, she is learning as much as possible about the student's true grades. She is unlikely to be—and has no good reason to be—interested in information about the student's past academic performance for its own sake; she wants to know what she can expect from the student in the future. She is unlikely to be concerned about the vagaries of a student's performance on a particular exercise in a given course as a whole except as this helps her forecast the student's future performance. Thus, in turn, the instructor's

goal should be the determination of a student's true grade. Performance on a variety of individual exercises can be used to help the instructor identify the true grade. But what should be of interest to the instructor is the "true grade" itself.<sup>31</sup>

This obviously does not mean that grades should be determined in freewheeling abstraction from academic performance. There are good reasons for using performance as a key indicator of a student's true grade and, indeed, for choosing only rarely to assign a grade in light of anything other than the student's aggregate performance on all assigned exercises.<sup>32</sup> In a given instance, evidence regarding a student's SMC is available apart from her aggregate class performance. Other bases for judgments regarding SMC may be available but there may be good reason to be uncertain of their reliability or accuracy. Taking factors other than aggregate class performance into account, especially in an individual case, may require an inefficient use of an instructor's time. Perhaps most importantly, fairness—like the need to ensure that grades are useful to transcript readers—requires that each comparable grade reflect a judgment regarding competence, understood in a consistent way, with respect to the same subject matter. Diversifying the ways in which instructors determine grades

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31. Thus, given the PAE, it is not helpful to say that a grade "represents a value judgment concerning the relative quality of a student's *achievement of course objectives* during a specified period of instruction," Terwilliger, *supra* n. 21, at 22 (emphasis added), or that it "is intended to represent an expert's judgment of the quality of a student's *work* within a specified area of inquiry, Cahn, *supra* n. 22, at 25 (emphasis added). A student's grade ought not to be a reflection simply or primarily of her "achievement" or "work" *per se*, but with this achievement or work *as an estimator of SMC*. Cahn concedes as much when he says that "[s]tudents who receive C's in introductory physics are not C persons with C personalities or C moral characters, but individuals who have achieved only a *fair grasp of the fundamentals of elementary physics*," *supra* n. 22, at 26 (emphasis added). Similarly, he notes that the fact that a student received an F in a course means that she "failed to master any significant part of it" and that "[a] person who requires two, three[,] or four attempts to pass calculus *lacks the mathematical or study skills* of someone who passes the first time . . ." *Id.* at 27 (emphasis added). He suggests that the instructor who "grades on a curve" has confused "rank in class . . . with *mastery of subject matter*." *Id.* at 29 (emphasis added). John S. Brubacher, *On the Philosophy of Higher Education* 108 (Jossey-Bass Publishers 1982) may elide the two distinct ideas when he argues that "grades should be regarded not merely as motivators but as genuine measures of achievement in the mastery of the higher learning." It is also possible to read Brubacher as focusing primarily on mastery—so that "achievement in the mastery of higher learning" means something like SMC.

32. I will subsequently use the expression *aggregate class performance* for this sort of performance.

runs the risk of multiplying the meanings of grades in particular courses. Further, consistent academic standards make it easier for an instructor to avoid being swayed by biases that have nothing to do with a student's academic capacities, and such standards are easiest to apply to students' performance on ordinary course assignments. So there are good reasons to focus on aggregate class performance when determining grades.

That grades ought to reflect SMC is, as I have emphasized, no reason to ignore aggregate class performance. It is, however, a reason for an instructor to base grades *only* on student performance on exercises likely to lead to an accurate measure of students' true grades. It is also a reason for her to be open to evidence that might lead her to assign a student a grade different from the one she might assign if she attended only to aggregate class performance. This is so at any rate, presuming—and only presuming—that this evidence is genuinely reliable and likely to foster accuracy, that she can publicly justify her use of this evidence if she is willing to take comparable evidence into account when determining other students' grades if it is available.

Ordinarily, the instructor is entitled to assume that the same evaluative methods are appropriate for all students, but this is only a presumption. Suppose she has a particular reason to believe that she can more accurately estimate a student's SMC using a technique other than the one she employs to estimate the grades of other students. In accordance with the PAE, she should use the more accurate approach, provided she can clearly document her reasons for employing it. Fairness dictates that she treats like cases alike and different cases differently. If she can demonstrate that a particular student's case is relevantly different from the cases of other students, it may be acceptable, and perhaps even obligatory, for her to assess this student differently in order to ensure that the student's grade is an accurate estimate of her SMC.

SMC is not the bare ability to recall facts or employ certain intellectual tools. An instructor may reasonably identify the ability to make use of relevant skills, information, or understanding in a particular setting as an element of SMC. Thus, while it may sometimes be appropriate to discount the effects of intense situational pressure on a student, accurately

assessing SMC may sometimes require that a student's capacity to function under pressure be taken into account; in an exceptional case, performance under pressure may well be one of the skills that make up SMC.

Students are relatively similar, and evidence suggesting that conventional evaluative exercises are inaccurate estimators of SMC will not often be available. Provided that appropriate exercises are assigned, aggregate course performance can be a good, though certainly not a perfect, indicator of a student's SMC.

## II. ACADEMIC CONSEQUENTIALISM AND RETRIBUTIVISM

A variety of conventional academic practices appear inconsistent with the principle of academic exclusivity (PAE). These practices are almost always defended using one of two possible theoretical approaches: *academic consequentialism* and *academic retributivism*. Here this paper will explore particular issues in the ethics of grading and will address specific arguments that proponents of each of these positions might offer. However, before turning to specifics, some more general observations about these approaches should be made as to why, neither approach is arguably plausible.

### A. *Academic Consequentialism*

Consequentialism is the thesis that the moral rightness or wrongness of an act is a function of the state of affairs it brings into being—of its consequences. Academic consequentialism is the application of consequentialism to grading. Someone committed to *general academic consequentialism* will make grading decisions with the purpose of bringing about the greatest possible amount of good in the universe, whereas, someone committed to *restricted academic consequentialism* will make grading decisions with the purpose of bringing about the greatest possible amount of some more narrowly specified good.

The academic consequentialist will be inclined to understand a grade in instrumental terms. She will understand it as a means of motivating transcript readers of various sorts to view a student with favor or disfavor. Furthermore, because the possible reactions of transcript readers to a grade can affect the student's welfare, grading

criteria will also serve as a means of motivating the student. The instructor's authority to assign grades gives her considerable leverage over a student's behavior, and if applying a consequentialist view, she will use this authority. Whenever it is likely to prove effective, a consequentialist instructor may use the threat of a bad grade or the promise of a good one to prompt a student to behave in ways that maximize the good. Similarly, she will use her ability to motivate transcript readers by means of the grades she assigns to respond favorably to students with the goal of maximizing the good.

To begin with general academic consequentialism: suppose a student from a wealthy family is experiencing academic difficulties at a secondary school or university. Aware that a positive report from the student may lead the student's mother to be exceptionally generous when approached by university development personnel, a consequentialist instructor might conclude under some circumstances, assuming the institution serves the general good, it would make sense to use a grade as a means of increasing the student's satisfaction with the institution and the consequent likelihood of a substantial gift from the student's mother.<sup>33</sup>

It is not certain, of course what this instructor should do on consequentialist grounds. The circumstances may lead him to believe that, on the balance, assigning an inaccurate grade to this student would be counter-productive. The consequentialist is not usually committed to grading inaccurately. There is no consequentialist reason why, in general, he shouldn't at least consider the possible impact of a grade on her institution's bottom line.

This is, of course, just the sort of counter-intuitive example regularly canvassed in the literature on consequentialism.<sup>34</sup> It will strike some readers as extreme; it is presented here with the suspicion that most instructors will be disinclined to approve of using grades to increase donations. However, the

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33. Alternatively, suppose that an instructor wishes to benefit a socioeconomically disadvantaged student. A good grade will help the student obtain educational and professional opportunities that will increase her socioeconomic status.

34. For a classic challenge of this sort, see H. J. McCloskey, *A Note on Utilitarian Punishment*, 72 *Mind* 599 (1963) (a utilitarian sheriff might deliberately execute an innocent person to prevent a riot that might lead to bloodshed). For a genial utilitarian response, see J. J. Smart, *An Outline of a System of Utilitarian Ethics*, in J. J. C. Smart & Bernard Williams, *Utilitarianism: For and Against* 1, 69-72 (Cambridge U. Press 1973).

sections that follow suggest that rejecting academic consequentialism has implications for a variety of common academic practices.

There are good reasons for rejecting consequentialism generally. Perhaps most fundamentally, consequentialism depends on the assumption that it is possible, in some meaningful way, to aggregate goods or preferences to permit the global comparison of states of affairs. But if particular human goods and particular instances of human goods are incommensurable, so that this kind of aggregation is impossible, consequentialism can't get off the ground. Consequentialism can also be criticized because it seems to be blind to distributional issues many of us think are morally significant; because it seems unable to take adequate account of special responsibilities and special relationships like friendship; it instrumentalizes relationships, projects, and values we tend to think of as intrinsically valuable; and because it gives a poor account of promise-keeping and truth-telling.<sup>35</sup>

The rejection of a consequentialist rationale for grading will often be motivated by the intuition that assigning grades as a means of enhancing the general welfare flies in the face of the commitment to the truth that is central to academic life. Truth-telling is central to and definitive of the practices of teaching, learning, and scholarship. Even those who do not believe that consequentialism is a non-starter as a moral theory may still be skeptical about the use of a general consequentialist rationale for assigning grades.<sup>36</sup>

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35. For criticisms of consequentialist approaches, see Alasdair C. MacIntyre, *After Virtue: A Study in Moral Theory* 61–63, 67–68, 185 (2d ed., U. of Notre Dame Press 1984); Finnis, *supra* n. 30, at 111–119; John M. Finnis, *Fundamentals of Ethics* 80–108 (Oxford U. Press 1983); John M. Finnis, Joseph M. Boyle, Jr. & Germain G. Grisez, *Nuclear Deterrence, Morality, and Realism* 177–296 (Oxford U. Press 1987); Germain G. Grisez & Russell Shaw, *Beyond the New Morality: The Responsibilities of Freedom* (3rd ed., U. of Notre Dame Press 1988); Nel Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* 86–87, 151–154 (3d ed., U. of Notre Dame Press 1984); Bernard A. O. Williams, *Morality: An Introduction to Ethics* (Harper & Row 1993); Bernard A. O. Williams, *A Critique of Utilitarianism*, in Smart & Williams, *supra* n. 32, at 77–150; Robert Merrihew Adams, *Finite and Infinite Goods* (Oxford U. Press 2000); and Robert Merrihew Adams, *Saints*, in *The Virtue of Faith and Other Essays in Philosophical Theology* (Oxford U. Press 1988)

36. A defender of consequentialism might point out that widespread assignment of grades for reasons unrelated to SMC would diminish their usefulness. A consequentialist grader would obviously have good reason to follow a broad consequentialist rationale for grading sparingly. However, this clearly wouldn't give



The inappropriateness of academic consequentialism is apparent even when the academic consequentialist seeks to maximize something other than the general welfare.<sup>37</sup> The most obvious sort of restricted academic consequentialism urges the assignment of grades as a means to motivate student learning. The instructor might seek to benefit a student by giving her a grade that suggests that she has *more* SMC than she actually does in order to improve her confidence and encourage her to remain in school and continue learning. The instructor might seek to benefit a student by giving her a grade that suggests that she has *less* SMC than she actually does in order to encourage her to avoid what the instructor believes is irresponsible academic conduct that may limit her learning in other contexts. The instructor might seek to benefit a group of which the student is a member by giving her a grade that suggests that she has *less* SMC than she actually does in order to maintain confidence in a *system* of grading norms the instructor believes will motivate students to learn effectively.

In all of these above cases, the instructor's goals are academic in nature. She seeks to promote effective learning. However, like general academic consequentialism, restricted academic consequentialism is indefensible. It requires the same impossible commensuration of consequences on which consequentialism in general depends. The range of consequences the restricted academic consequentialist is prepared to consider is narrower than those the general academic consequentialist is prepared to consider. But this does not change the fact that the academic and nonacademic factors at issue in decisions about academic evaluation cannot be objectively measured on a common scale. And like general academic consequentialism, restricted academic consequentialism counter-intuitively violates the principle of

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the would-be-consequentialist grader a reason not to give a grade for welfare-maximizing reasons in any given case. And the consequentialist's willingness to offer this observation might perhaps be seen as respect for the independent worth of intuitions for which, on consequentialist grounds, she need have no regard, and thus as a concession of consequentialism's inadequacy. If it is a defense of consequentialism to show that it yields results consistent with certain non-consequentialist intuitions, the implication seems to be that if it did not do so it might be worth revising or abandoning.

37. Again, I want to emphasize that intending to maximize the general welfare is like intending to draw a square circle: it's not doable even in principle. But it is surely possible to intend to do something impossible.

truth-telling. Restricted academic consequentialism is designed to foster learning and the discovery of truth. Ironically and self-defeatingly, consequentialism leads instructors to deny the truth as a means of promoting the acquisition and dissemination of truth.

There seems to be little reason why an authentic consequentialist would choose on a consistent basis to be a restricted academic consequentialist. Similarly, there is little reason for someone not inclined to consequentialism in the first place to regard it as appropriate in an academic environment alone. A conventional consequentialist will make conduciveness to the general welfare the ultimate criteria for her actions (she won't necessarily appeal to this criterion when making individual decisions, of course). She will wish to take all consequences into account (directly or indirectly), and someone with principled objections to consequentialism in general won't be able to defend consequentialism as a normative defense for a particular approach to academic evaluation. An intuitionist moralist might not face a charge of personal inconsistency if she argued for the appropriateness of consequentialist reasoning under some circumstances and of other kinds of moral reasoning under others.<sup>38</sup> However, she will still need to confront the general positive objections to consequentialism. Others will be forced to choose between adopting general academic consequentialism (and consequentialism more generally) with predictable but implausible and undesirable results, or rejecting consequentialisms of all sorts in favor of more satisfactory approaches to moral reasoning about, among other things, academic life.

### *B. Academic Retributivism*

Retributivism is the view that the criminal justice system, among others, should allocate benefits and harms to people in light of what they purportedly deserve. *Academic retributivism* is the concept that a grade may in part rightly reflect a moral judgment regarding a student's character as it manifests itself

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38. The sort of intuitionism I have in mind is the sort best represented by W.D. Ross, *The Right and the Good* (Oxford U. Press 1930); and W. David Ross, *Foundations of Ethics: The Gifford Lectures Delivered in the University of Aberdeen, 1935-1936* (Oxford U. Press 1939); see generally Jonathan Dancy, *Moral Reasons* (Blackwell 1993).

in academic contexts. Under academic retributivism, a grade may be in part a means of rewarding a student for morally good academic conduct and punishing her for morally bad academic conduct.

Academic retributivism is objectionable on several counts. Again, it leads to results inconsistent with the principle of academic incommensurability and the principle of truth-telling. I will explore the ways in which it does so in greater detail later in this paper. I want to point out here at a more general level that academic retributivism can be rejected on the same basis as retributivism in general.

A basic flaw in all forms of retributivism is that they transplant ways of reasoning that seem appropriate in the economic sphere into the non-economic sectors of our lives. If I unjustly cause you to lose something that is purely instrumental in value, purely monetary in worth, then I can compensate you for this loss by providing you with a replacement or substitute or simply by giving you the monetary equivalent of what I have caused you to lose. What matters is not that I have lost something in the process but that you have been made whole.

Retributivism transfers the logic of economic exchange into an arena in which it makes no sense. We speak of retribution as a matter of “paying back” someone who has done something harmful. But this is a case of metaphorical language doing work that ought to be done by careful philosophical argument. The idea of *punishment* for moral wrong means causing some harm to me because I have caused some putatively equivalent harm to you. But it is easy to see that, once stripped of the support provided to this idea by out-of-place economic metaphors, it is fundamentally nonsensical. Suppose I tell lies about you to our mutual friends and cause you to lose one or more important close relationships. The logic of retribution suggests that I should suffer some harm as a result. It is obvious, however, that any harm I might suffer could itself restore your relationship with any friend from whom you’ve become alienated because of my deception.<sup>39</sup> Even if I am

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39. Of course, I am obligated to do my best to repair the breach I have caused. And in the course of doing this I may suffer harms of one sort or another. But the notion that harms may follow on attempts to redress wrongs is quite different from the notion that such harms *should* follow and that their occurrence is or can be a constitutive part of what redressing them means.

punished, you are no better off after I've suffered some punitive harm than you were before.<sup>40</sup> You haven't been paid back at all. If you believe or feel that you have, it's because you misconstrue harm to you as a benefit to me because of the curious logic of retribution.<sup>41</sup>

It should be obvious that, as an instance of retributivism in general, academic retributivism is indefensible for the same reason that retributivism in general is indefensible. The retributive punishment of students who have caused academically cognizable harms of one sort or another harms the students but does not itself *constitute* any sort of real restitution to those they have harmed.<sup>42</sup> Retribution is not a means of effecting restitution. This is true whether grading is used as a means of retribution (positive or negative) for moral conduct and character generally (*general* academic retributivism) or only for a narrower range of acts and character traits perceived to be directly relevant to the life of the academy (*restricted* academic retributivism).

General academic retributivism suffers from the incoherence of retributivism generally. It also leads to intuitively implausible consequences. On general retributivist grounds, it seems as if grades should reflect a range of student virtues. Perhaps, for instance, a student who saves a drowning boater on the school's lake might deserve higher grades.

40. Strike & Soltis, *supra* n. 23, at 29 ("Perhaps the weakest point in the retribution theory of punishment is the suggestion that the universe somehow requires that evildoers be punished with a compensating quantity of pain. Why should we believe this? The point can be put more forcefully. The retribution theory seems to require that we respond to one evil event by adding a second. How is the universe improved by adding an additional piece of suffering to it? If we are to punish evildoers, ought we not to expect some good to result? Otherwise, does not punishment merely add gratuitously to the pain in the world?").

41. A policy or institution created with retributive rationales may sometimes be defended on consequentialist grounds. Retribution is seen, for instance, as deterring subsequent harmful conduct by others, as treating the punished person as an example to others. If the use of consequentialist arguments involves a repudiation of the previously-advanced retributivist ones, then we do not need to attend to retributivist arguments for the policy or institution; those already outlined and subsequently elaborated against consequentialism will suffice. If, by contrast, the consequentialist arguments serve primarily to provide a cover for atavistic retributivist impulses, then the counter to retributivism I have offered here and on which I will expand below will show the policy or institution to be undesirable.

42. Again, these students may be harmed instrumentally, with the purpose of bringing about some benefit to others—perhaps the others they have harmed. But in this case they are being harmed on consequentialist grounds, and the standard objections to consequentialism will apply.

Perhaps a student who helps classmates study should be rewarded by receiving an “A” instead of an “A-”, and so on. General academic retributivism seems highly implausible.

A defender of retributivism may be inclined to suggest that this paper mischaracterizes what retributivism actually looks like in practice. For the retributivist, there needs to be some sort of equivalence between a student’s conduct or character and the way she is treated. She ought to suffer the sort of harm she has done, experience the kind of good she has fostered. The rule of equivalence seems to exert a measure of control over what retributivists might be prepared to argue and to help them avoid absurd conclusions. But there are two problems with this response.

First, individual harms and benefits aren’t commensurable. Once we’ve left the monetary realm, it is impossible to say even that two instances of a given human good could be exchanged for each other. Second, we don’t ordinarily seek this kind of equivalence when we practice retributivism—academic, or otherwise. An equivalence-based rationale makes the most sense as a defense of execution as a judicial response to murder, though even here it does not, of course, for the same reason that retributivism generally doesn’t work: the murderer’s loss of life obviously does nothing for the victim or the victim’s survivors.<sup>43</sup> It makes no sense at all in other contexts, and we don’t even act as if it did. We don’t lie to the academically dishonest; we don’t see to it that late students are forced to wait. The punishments educational institutions seek on retributivist grounds to impose on students who cause academically cognizable harms *aren’t* in any obvious sense equivalent to those harms, even if we grant the retributivist’s commensurability assumption. These practices cannot, therefore, be plausibly defended on retributivist grounds. In

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43. Craig Kinzer has suggested that an objector could argue that the beneficiary here is the community rather than the victim or her survivors, but it is not clear how best to make sense of this notion. If the idea is that the community is better off because a person with a propensity for violence has been eliminated, so that there is no possibility that she will harm anyone in the future, then the objector seems to be making a consequentialist argument, subject to the standard criticisms of consequentialism. (In any case, it is not clear why life imprisonment cannot, in principle, accomplish the same sort of risk reduction.) By contrast, if the objector believes that the community simply is *better* because someone who has caused someone else to lose something has lost something herself, I confess puzzlement. I do not see how the criminal’s loss can be construed as *constituting* a gain for the community absent some doubtful economic assumptions that seem inappropriate in this context.

any case, however, whatever the counter-intuitive character of the conclusions to which academic retributivism might be thought to lead, the essentially incoherent and misleading character of academic retributivism makes it an inappropriate basis for academic decision-making.

### III. THE PAE AND COMMON ACADEMIC PRACTICES

Consequentialism and retributivism are unattractive guides to the moral life generally and to the ethics of grading in particular. They give us no good reason to reject the principle of academic exclusivity (PAE). Given that the PAE is plausible on other grounds and that there are good reasons for rejecting the alternatives the educational community should endorse the PAE.

The PAE has implications for grading practices in a number of areas: the use of attendance to determine grades, the role of homework and busywork in grading, the treatment of academic dishonesty, policies regarding changes in grades, policies related to late work, and procedures regarding incomplete grades. In this section, I explain these implications and defend the conclusions I draw from the PAE about grading practices. Though I challenge some common evaluative practices, I do not wish to deny that the goods they seek to serve are often valuable. I simply wish to argue that educational institutions should employ means consistent with the PAE to accomplish worthwhile nonacademic goals.

#### *A. Attendance and Participation*

In light of the PAE, there is little or no reason for an instructor to take a student's attendance into account when assigning her a grade. Using participation to help determine a student's grade can, however, be consistent with the PAE.

That a student attends a lecture is not, in and of itself, a particularly good reason to believe that she possesses any particular level of SMC. It may be more likely that a given student will be more competent with respect to the subject matter of a class if she attends it than if she does not. But attendance itself does not demonstrate SMC, and absence does not show a lack of SMC. A student's presence at a class is not the kind of performance that could even *in principle* demonstrate that she is competent with respect to the subject

matter of the class. At best, it can demonstrate a degree of exposure to the subject matter that might provide limited *support* for the contention that she has SMC. Whether she does or not can be assessed in a variety of ways other than noting her attendance or absence. Either an instructor has reason to believe the evaluative instruments she uses to assess her students' SMC are reasonably accurate or she does not. If the instructor believes grades are an accurate reflection of SMC then it is difficult to see how she could reasonably believe that altering grades based on sheer attendance would improve her ability to estimate her students' SMC. If she believes they are not, then she ought to replace them. She should not rely on attendance-based measures to improve the accuracy of her grades. Increasing or decreasing a student's grade because of her attendance record means implying, inaccurately, that she possesses a degree of SMC for which her attendance provides no evidence. It violates her duty to avoid deception.

An instructor is generally unlikely to take attendance into account when determining grades simply or primarily because she thinks attendance is an especially good indicator of SMC. She may have some other rationale.

(1) She may believe that attendance reflects habits and character traits likely to be of interest to transcript readers, and she may suppose her student's grades should communicate these habits and traits.

(2) She may seek to offer students an incentive to develop these habits and traits; she may wish to offer students an incentive to attend because she believes attendance is crucial to learning.

(3) She may wish to punish students for what she believes is a morally irresponsible choice not to learn and develop habits of punctuality and attendance at scheduled appointments.

(4) She may believe that a student who fails to attend her classes will waste her time and that of others both by asking questions in or outside class that would have been answered had the student attended class. She may believe that they will waste her time by submitting examinations or out-of-class assignments which she will be forced to grade even though the displayed level of SMC is too low for the work to be minimally satisfactory. She may also believe that those who arrive late will waste her time and the time of other students by disrupting her classes when they arrive. She might thus seek

to use her grading scheme to discourage students from being late or absent.

All of these objectives except the third are appropriate, but none is appropriately achieved using grades. None justifies violating the PAE by allowing a student's attendance to affect her grade.

(1) To repeat, a grade should not be best thought of as reflecting a variety of nonacademic character traits. Transcript readers have no way of knowing whether or not a grade might have been affected by these traits. Because nonacademic character traits are so different from the SMC a grade is intended primarily to measure, it is meaningless to combine character traits with SMC in determining a student's grade.

(2) Attendance is surely useful for students. The desire for a good grade or the fear of a bad one may prompt a student to attend class. And offering credit of one kind or another for attendance will obviously not have the sort of affect on student behavior an instructor is likely to desire unless she fulfills her attendance-related promises or threats. If she intends to use her grading scheme as an attendance motivator, she must, in accordance with that scheme, give students who attend higher grades than they would have otherwise received in light of the available measures of their SMC and, conversely, give students who are late, or who fail to attend, lower grades. This sort of practice demands an academic consequentialist justification. But academic consequentialism in general is unwarranted. Further, in assigning grades for consequentialist reasons, an instructor clearly violates the PAE. She fails to tell the truth about her students' SMC. Some students may receive poor grades because of their poor attendance. They may suffer later because they have acquired poor habits. But the goal of preventing these harms does not justify violating the PAE.

(3) Poor attendance may sometimes be a moral wrong, but so is assigning grades based on attendance. Doing so depends on the incoherent idea of retribution and involves misrepresenting students' SMC. Thus, it violates the PAE.

(4) An instructor may be warranted in the belief that late or absent students will waste her time or the time of other students, and that she can use the threat of poor grades to deter such waste. But again, consequentialist arguments of this sort are unconvincing both because consequentialism is a non-starter and because truth-telling underlies the PAE. In



any case, the instructor has other means of preventing time from being wasted. For instance, it would be consistent with the PAE for an instructor to require that a student drop a class if, whether because of perpetual absence or for some other reason, the student took up an excessive amount of her time and showed no promise of gaining satisfactory competence with respect to the subject matter of the class before the end of the term during which the class was taking place. The PAE would require only that the student's transcript reflect the fact that she was forcibly dropped from the class and that it make clear that any grade recorded is an estimate made at the time she dropped rather than a grade determined on the basis of a term's worth of assignments.

Unlike attendance, a student's participation in class discussions can provide an instructor with useful information regarding a student's SMC. It is thus quite consistent with the PAE for an instructor to take into account what a student says during class discussions and how she says it in determining the student's grade, provided she focuses on what the student's participation reveals about her SMC.<sup>44</sup> It would not, by contrast, be appropriate for an instructor to reward a student just because she participated. The instructor should not give the student credit for participation without attending to what she says and how she says it as indices of SMC. If she does, she runs the risk of effectively rewarding a student for attendance alone—or perhaps for exhibiting the virtuous habit of helping others learn—and thus is guilty of violating the PAE.

### *B. Reading and Writing Assignments*

The PAE rules out assigning grades on the basis of "busywork." It precludes taking into account the simple fact

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44. An instructor may believe—plausibly—that participation plays a vital role in facilitating the learning of others. She may also believe—plausibly—that a student is likely to read and think more carefully than she otherwise might when preparing for a class in which participation is required and that her subject-matter competence will consequently be enhanced. She may thus welcome a variety of positive consequences affected by a decision to award credit for participation, and the PAE gives her no reason not to do so. It merely stipulates that the potential value of these consequences gives her no independent justification for taking participation into account when she determines her students' grades and no basis for evaluating student participation, if she requires it, in a way that fails to focus on its value as a means of estimating students' likely subject-matter competence.

that a student has or has not read a body of assigned material at a particular time. More controversially, it discourages instructors from basing grades on a student's performance on homework exercises designed to help the student build skills.

According to the PAE, a student's performance on an assignment should contribute to the determination of her grade to the extent that it helps her instructor estimate her SMC. An assignment which allows more precise estimation of a particular aspect of a student's SMC should be preferred to one which allows less. Given the PAE, it would never be appropriate to give credit to a student simply for reading an assigned text, as opposed to completing a review that shows critical engagement with the text. The purpose of offering credit simply for reading a text would be roughly the same as the purpose of offering credit for attendance and being prompt or for rewarding good behavior and discouraging or punishing bad behavior. Evidence that a student has read a text is evidence that she has been *exposed* to certain material, not that she has understood it or engaged with it critically. In most cases, evidence that she has not read a text is only presumptive evidence that she has not been exposed to the relevant material as she could have been exposed to it in some other way.<sup>45</sup> In any case, an instructor's evaluative exercises give her a much more accurate means of assessing a student's SMC than simple knowledge that a student has read a portion of an assigned text.

There is no hard-and-fast distinction between practice-oriented, skill-building homework exercises and others, which serve primarily to facilitate the accurate assessment of SMC, such as in-class examinations. However, it is clear that some homework exercises are designed primarily to help students acquire proficiencies of various sorts instead of measuring SMC. Homework exercises in mathematics classes are obvious examples; a student practices problems of a certain type to learn how to approach an indefinite variety of possible future problems of the same sort. Whether she has in fact learned to do so will be estimated using examinations that measure her abilities under monitored and time-controlled conditions.

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45. Obviously, in a course in literature a student usually cannot be exposed to all of the relevant material except by reading the assigned text; digesting *Cliff's Notes* will tell a student something useful about *Huckleberry Finn*, but the student won't discover the delights of Twain's language or engage directly with his literary artistry.

In accordance with the PAE, an instructor should where possible, avoid basing grades on students' performance on repetitive, skill-building exercises (RSEs). Instructors should assign such exercises where appropriate, but they may violate the PAE when used to estimate students' SMC and in determining their grades. In most cases, a student's performance on examinations, papers, and projects will provide a much better basis for estimating her SMC. Information gained from students' performance on RSEs will often be, at best, superfluous. Consider four possibilities: (1) a student does well on examinations, papers, and projects *and* on RSEs; (2) the student does well on RSEs and poorly on examinations, papers, and projects; (3) the student does poorly on RSEs (or does not complete them at all) and well on examinations, papers, and projects; (4) the student does poorly on RSEs *and* on examinations, papers, and projects.

In cases (1) and (4), the RSEs provide the instructor with no useful information as she determines the student's grade. In case (2), the instructor has some reason to suspect that the student is cheating, receiving help, or taking an inordinate amount of time to complete the RSEs. It is also possible, of course, that the student is a poor test-taker but is developing genuine SMC, which is revealed by her performance on the RSEs. If the instructor believes that this is the case, she cannot do so on the basis of the RSEs, the interpretation of which is in question. And she cannot do so on the basis of the student's overall examination performance, which is, *ex hypothesi*, poor. If, nonetheless, she *is* warranted in believing that the student is acquiring more SMC than the student's examination performance suggests, the PAE suggests that this belief might appropriately be reflected in the grade she assigns the student. However, in this case, the determinative fact would be that she has independent reason to believe the RSEs reflect the student's true SMC more accurately than do examinations instead of making a general decision to base grades in whole, or in part, on RSE performance.

In case (3), the instructor has little or no reason to base the student's grade on her RSE performance, provided the instructor is confident that her examinations, papers, and projects enable her to accurately estimate the student's true grade. If they do, the student's RSE scores are superfluous and reducing the student's grade because of her RSE performance

will violate the PAE, given that the grade will be a less accurate estimate of her SMC than if her RSE scores are excluded.

It is possible, of course, that the instructor reasonably believes that her examinations alone do not allow her to accurately estimate a student's SMC and that it is not practicable for her to design them in such a way that they do. If she reasonably believes this, and if she also reasonably believes that combining RSE performance with examination performance allows her to estimate the student's grade more accurately than would considering examination performance alone, she does not violate the PAE by taking RSE performance into account. It is unclear, however, what would provide evidence that taking RSEs into account when determining grades yields a more accurate estimate of SMC than not considering them.<sup>46</sup> And it is crucial to ensure that, in the rare cases in which RSEs are rightly taken into account, grades are not influenced by such irrelevancies as a capable student's lack of interest in completing busywork. Even if an instructor takes RSEs into account when determining some students' grades, she need not do so when determining any given student's grade unless doing so increases the likelihood that she will accurately estimate the student's SMC.<sup>47</sup>

Of course, instructors may tend to give students credit for their RSE performance not because they believe that RSE performance is a good estimator of students' true grades but because they believe that by doing so they will encourage students to complete RSEs and thus to master relevant skills. But this sort of academic consequentialist reasoning falls foul

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46. Where there is a significant disparity between a student's performance on a comprehensive final examination and her performance on prior examinations during a course, a similar problem may arise; if so, a similar analysis would apply in accordance with the PAE. If the final examination yields an estimate of a student's subject-matter competence that is clearly more accurate than one based on consideration of all examinations, the instructor should focus on the final examination when determining the student's grade. But there is a stronger case to be made for the view that performance on prior examinations is a useful contributor to an overall assessment of a student's subject matter competence than there is for the view that RSE performance should play this role. And, indeed, there is a reason to believe that single examination is a less accurate estimator of students' subject matter competence than an array of examinations or other exercises.

47. Educational institutions rightly care about students' self-discipline, but students' character development is best encouraged in ways that do not affect their grades. But see the discussion of late and missed work, *infra*.

of the standard criticisms of academic consequentialism and will, in some cases, lead an instructor to violate the PAE. An instructor violates the PAE if, on the basis of a student's RSE performance, she gives a lower grade to the student than her examination performance suggests she should receive, not because the examination performance is an inaccurate estimator of the student's SMC, but because the instructor wishes to maintain a system of incentives for other students to build skills by completing RSEs or for the student to develop better study habits.

The PAE requires a preference for examinations and essays, rather than RSEs, as means of estimating students' SMC and determining grades. In accordance with the PAE, quizzes may also be taken into account in determining grades to the extent that they can serve as accurate snapshots of student performance rather than as motivational tools designed to spur students to prepare for class discussions or attend class. An instructor may welcome the positive motivational impact of the practice of administering regular quizzes, but this practice must be justified on other grounds—otherwise, it will, in reality, be serving inappropriate consequentialist or retributivist purposes.

### *C. Service-Learning*

Engaging in service activities can be a valuable way of learning about social problems and developing habits of compassion and generosity. It is perfectly reasonable that service activities might be among the learning experiences associated with a given course. However, the PAE dictates that students be graded in light of their SMC, not their participation in these activities.

The usual sorts of inappropriate reasons may be given for awarding credit for service-learning. Consequentialists will wish to encourage participation in service ventures and the development of useful habits. Retributivists will wish to reward the virtuous who participate and punish the selfish who do not. Based on the arguments already presented, these reasons are facially unpersuasive.

Participation in a service activity connected with a given course may foster the development of competence with respect to the subject matter of the course, presuming the activity has been selected with an eye to fostering class-specific learning

rather than simply encouraging the development of the more general habits of compassion and generosity. But even if an activity has been selected to help students develop SMC, evaluative instruments should be employed to determine whether students have actually acquired greater SMC as a result of participating in it. It cannot be assumed that they have acquired greater SMC simply because they have participated in service-learning activities, and it cannot be assumed that they have not acquired greater SMC because they have not participated. Ordinary evaluative instruments are likely to be far more effective at estimating students' SMC than the mere participation in service-learning activities.

Service-learning, as currently understood, characteristically includes a reflective component. Students are asked to explore the meaning of the service activities in which they have engaged and to explain what the activities might have taught them. Provided such reflective exercises are taken seriously and evaluated as possible estimators of SMC, instructors may reasonably consider them when determining grades. It will be important, however, not to give them undue weight or to evaluate them using standards different from those employed with respect to other evaluative instruments. Otherwise, it will be difficult to escape the conclusion that students are being rewarded simply for participating in service activities or punished for not participating, thus violating the PAE.

To be sure, it is conceivable that some kinds of learning can happen only through doing. It may not be possible for a student to acquire some kinds of habits and attitudes without participating in service-learning activities. But habits of compassion and generosity are quite different from SMC; this incommensurability makes combining service-learning activities with measures of SMC to determine grades a dubious enterprise. Further, grades, as conventionally understood, do not measure or reflect habits of this sort, so taking the development or exhibition of such characteristics into account violates the PAE's truth-telling requirement. Grades are concerned with more narrowly cognitive capacities. It is reasonable for institutions and instructors to assess students' affective and moral development but this assessment should be distinguished from *grading*.

*D. Late Work*

In accordance with the PAE, a student's grade should not be reduced because the work that is the basis for her grade is late. The PAE licenses limited exceptions to this norm based on the need to avoid substantial inconvenience and to ensure the usefulness of evaluative instruments.

The PAE-based argument against grade reductions for lateness is simple and straightforward. A grade is a rough measure of a student's SMC. The purpose of evaluative instruments is to help the instructor estimate a student's SMC. The time at which a student submits an exercise often provides minimal evidence regarding her SMC. A paper on Milton submitted on Thursday can provide the same sort of useful information about the student's competence as a paper submitted on the previous Monday. To reduce the grade for the paper submitted on Thursday because it is late would increase the probability of an inaccurate assessment of the author's SMC. It would therefore violate the PAE.

Some potential justifications for lateness discounts are similar to those offered for grade reductions based on attendance. Such justifications are subject to the same rebuttals and will be similarly unsuccessful. Given both the implausibility of academic consequentialism and retributivism and the positive requirements of the PAE, academic consequentialist and retributivist arguments for lateness discounts fail. Encouraging student responsibility or punishing student irresponsibility does not warrant inaccurate grading.

However, accurate grading should not become a monomaniacal passion for any instructor. There are other things besides grading that rightly claim the instructor's time and attention. She is not obligated to subject herself to substantial inconvenience because her students have behaved irresponsibly. She has the right to delay her assignment of grades for students who have submitted exercises after she has requested that these exercises be submitted. If grading an exercise would create a substantial inconvenience for her but the student wishes that the grade be submitted at the same time that she assigns all other grades, the instructor has the right, under the PAE, to grade the exercise more cursorily than she would have graded it had it arrived on time. She may act in these, and perhaps other, ways to reduce unreasonable inconvenience created by a student's late submission of

exercises. What she may not do, at least ordinarily, is reduce the grade on a paper she has, in fact, taken the time to grade carefully simply because the paper is late. If an inaccuracy in a student's grade results from a cursory review of an exercise because the exercise was late, this inaccuracy may simply be an unintended byproduct of the instructor's reasonable desire to avoid excessive inconvenience. By contrast, a lateness-based reduction in a grade for an exercise an instructor has chosen to inconvenience herself by evaluating with reasonable care is—even if it is also something else—an intentional act of deception, and thus a violation of the PAE.

The PAE would permit an instructor to accept a late exercise from a student while discounting the student's performance on the exercise when determining the student's final grade. In light of the PAE, it would be appropriate for an instructor to do so if she reasonably believed that the student's access to time and information not possessed by others completing the exercise reduced the value of the student's performance as a predictor of her SMC. The PAE would also permit an instructor to simply decline to accept late work in some cases. Suppose, for instance, that an examination has been distributed to, and completed by, most students in a class. If the instructor reasonably believes that a student who was absent at the time the examination was administered has had opportunity to confer with others who have taken the examination and may well have done so, it would be permissible under the PAE for her to decline to administer the examination to the student. If the student possessed advance knowledge of the examination's contents then her performance on the examination could not be used accurately to predict her SMC. In such a case, the instructor might prepare an alternate examination. If constructing such an alternate examination proves a source of significant inconvenience, the PAE requires that she attempt to estimate the student's course grade based on the other resources available to her. Whether she should assume that the student possesses some competence with respect to the subject matter that is the focus of the missed examination, or whether she should treat the student as having no competence with respect to this subject matter, depends on the other information available to her about the student's SMC.



*E. Incomplete Conversions and Other Grade Changes*

When faced with a request that she change one conventional letter grade to another or substitute a conventional letter grade for an "incomplete" ("I"), an instructor must consider the probable degree of the inaccuracy, the likely cost to the student, and the cost to possible transcript readers if the grade remains unchanged, as well as the inconvenience to herself. In accordance with the PAE, she may rightly refuse to change or convert a grade if doing so serves the interests of accuracy or convenience. However, the PAE precludes any institutional policy that, for punitive or motivational reasons, places any limit on an instructor's freedom to change a student's grade after she has submitted it or which requires that an incomplete grade become a failing grade ("E" or "F") after a specified deadline.

Given the invalidity of retributivist and consequentialist rationales for grade assignment, an instructor should never change a grade except in the interests of accuracy. Of course, the passage of time, often a key issue in disputes related to grade changes and conversions, may create accuracy problems for instructors because it may limit cross-student comparability of grades.

Changing or converting a student's grade based upon her performance on assignments completed after the end of the term during which she took the course will usually mean that the student has had more time to complete coursework than her classmates. In some classes this additional time may be irrelevant. In others, however, it may affect the accuracy of a grade. Grades within a given course should be comparable; a grade earned by one student should have the same meaning as the same grade earned by another student. The pressure to complete a project in a limited time, for instance, may have been a feature of the evaluative process for the course. If this is so, and if there is no other way to ensure cross-student comparability, it may be necessary for the instructor to discount work submitted after she has assigned grades, even though she rightly takes such work into account. Grades are certainly more useful to transcript readers if they can facilitate comparative judgments among students.

An instructor may not remember correctly what standards she has employed to assess work submitted by other students. She may thus reasonably lack confidence that she can assess a

newly submitted assignment for a given course using the same standards she used initially to determine grades for the course. Thus, she may reasonably be uncertain that a changed or converted grade in a given course will have the same meaning as an identical grade assigned at the end of the term during which the course took place. If she is uncertain, she may reasonably decline to consider the newly submitted work. Alternatively, she may opt to discount the late work in some way to allow for any recall-related problems.

Like the need for accuracy, the desire for convenience may rightly justify an instructor's refusal to effect a grade change or conversion. An instructor is certainly entitled to avoid keeping student-related records indefinitely (unless the records are the focus of a legal or institutional controversy of which she has reason to be aware). Concern for her convenience dictates that institutional policies permit her to dispose of records related to a student's performance in a given course after a finite—and reasonably short—period. If she is asked about a possible grade change after this period and no longer has the necessary records, she may not be in a position to evaluate a student's request for a grade change or conversion. Similarly, if she reasonably believes the request is frivolous, she is justified in declining it.

By contrast, the PAE requires that the instructor re-evaluate the student's grade if it is reasonable for her to believe that the student's request for a grade change or conversion has merit, if she can evaluate the records accurately, and if she can do so without significant inconvenience. Institutional policy should permit her to make a grade change or conversion at any time in the interests of accuracy, though it should not require her to disregard her reasonable concern for her own convenience.

The PAE rules out institutional policies that place time limits on grade changes and those that stipulate that grades may be changed only to correct clerical errors. To be sure, there is doubtless a presumption in favor of stable grades. There is thus a reason for keeping changes unilaterally initiated by instructors to a minimum. In addition, an institutional policy limiting grade changes or conversions protects instructors, reducing pressure on them to consider excessively demanding or unreasonable student requests. Nonetheless, the PAE requires policies that encourage

accuracy.

Fairness to transcript readers means providing them with updated, accurate information whenever convenient. Even if a grade change leads to a reduced grade, a student's expectation interest in retaining a grade after it has been assigned does not trump a transcript reader's interest in accurate information regarding the student's SMC. The presumption against instructor-initiated grade changes weighs against such changes when they reflect, for instance, ongoing uncertainty—dithering, perhaps—on an instructor's part regarding how best to estimate a student's SMC. The presumption does not weigh against a change designed to ensure that a student's grade more accurately reflects her SMC, provided there is significant reason to be confident that the new grade *is* more accurate.

A rigid institutional policy that prevents an instructor from changing a grade after the passage of an arbitrary deadline *does* protect instructors from harassment by students. Nonetheless, such a policy deprives the instructor of the freedom to improve the accuracy of her grades. The cost of additional student harassment does not justify taking this freedom away from an educator because students and transcript readers both have substantial interests in accurate transcripts. The PAE calls for a concern with accuracy that is not trumped by the institutional need for closure or instructor convenience. And an instructor who is confident in the grades she has given can convey this confidence to students as clearly and forcefully as she can describe a rigid institutional policy, and so forestall inappropriate demands for grade changes.

Some institutional policies prevent instructors from changing grades at all except in response to clerical errors. Such policies may unnecessarily limit the accuracy of grades, and therefore violate the PAE. A student's grade should reflect the instructor's best estimate of the student's SMC. There are a variety of ways of assessing SMC. In an individual case an instructor may have access to new information that she did not have when she computed a student's grade that leads her to reassess the student's SMC. She may also find herself forced to reassess the procedures she has chosen to use in evaluating the student's SMC. In either case, she should be free to change a grade.

Information of at least two kinds might lead an instructor to reassess a student's SMC. The student might submit

additional work—work that should have been submitted earlier or work that supplements the work the student performed during the term in which she earned the grade at issue. Or the instructor might come to recontextualize the student's work as a result of learning about personal circumstances that affected the student's performance at the time she assigned the student's grade.

Post-term work may or may not be relevant. Late work, if it is taken into account, may make the student's aggregate class performance look different, and the instructor may have good reason to alter her grade.<sup>48</sup> Additional work, however, may not be relevant. Recall that a grade is not a reward for hard work. Doing additional work, even an infinite amount of additional work, does not itself warrant a higher grade. A grade is an estimate of SMC. Additional work justifies an improved grade only if it positively changes the instructor's assessment of the student's SMC. Giving a student a higher grade as a reward for extra effort violates the PAE.

Raising a student's grade because she has completed additional work rightly raises questions about fairness. Because a grade is not a reward for effort, it is not clear what could justify raising a particular student's grade simply because she has completed extra work. Even if an instructor does not regard a grade change as a reward for extra work, however, taking additional work into account at all may seem to raise fairness or accuracy problems. Other students have been graded based on work submitted before grades were due; the student whose grade is being changed has not. But this is irrelevant to the fairness of the instructor's grade-assignment decision. Again, a grade is not a reward for effort, it is an estimate of SMC at a given point in time. Provided all grades submitted by the instructor reflect reasonable judgments about SMC, a grade change made in light of additional or substituted work need not be unfair.

Suppose the instructor comes to recontextualize a student's work because she discovers after she has assigned grades that the student was in the midst of a personal crisis at the time she completed the work on which the instructor based her judgment about the student's grade. The instructor comes to

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48. Whether this is so in a given case will depend in part on the factors considered above in relation to late work.

believe that the student's work does not reflect the student's ability. This will not, in and of itself, be sufficient to tell her what the student's actual SMC is; it will simply tell her that she cannot trust her own estimate. Thus, recontextualization on its own will not warrant altering the student's grade. However, it may provide the instructor with a reason to provide the student opportunity to complete additional work designed to replace the work the student completed during the class in which she earned the grade she seeks to change. On the basis of this work, the instructor may be in a position to reevaluate the student's SMC. If she concludes, in light of this evaluation, that the grade she previously assigned to the student is inaccurate, the PAE dictates that she change it. On the other hand, the ability to respond to pressure may sometimes be a constituent of SMC. To the extent that it is, no grade change may be appropriate, even if the student's performance is recontextualized.

An instructor may also come to conclude that some, or all, of her evaluative instruments, or the way she made use of the information derived from them, were such that she could not accurately assess the SMC of the students enrolled in a given course. She has no obligation to neurotically explore this possibility. Absent strong countervailing evidence, it is consistent with her duties under the PAE to take her own convenience as decisive. In some cases, though, she may conclude that to grade accurately, she must discount some of the instruments she has used to evaluate students in a given course or take these instruments into account differently. If, for instance, she gave inappropriate weight to RSEs in determining her grades, she may realize that in so doing she assigned inaccurate grades to a variety of students. In accordance with the PAE, she should have the freedom to reconsider and revise her grades, if need be.

While the PAE requires that instructors be able to change or convert grades at will in the interests of accuracy, it also requires that transcript readers be informed of the dates on which grades were changed. A student may have gained more SMC during the period since the completion of the term when her initial grade was assigned. If this grade is changed, the student's transcript must make clear how much time has elapsed between the assignment of the initial grade and the grade change. Provided the student's transcript does make this

clear, however, a grade change need not raise special accuracy problems.

An instructor may sometimes be required by the PAE to give an "I" grade if she lacks the information she needs to assess a student's SMC. Suppose, for instance, the student has turned in too few assignments for her to estimate the student's SMC accurately—she cannot responsibly submit a grade for the student. Even if she is not *required* to give a student an "I," she may have sufficient doubts about her understanding of the student's SMC to make acceding to the student's request for an "I" reasonable. Institutional policies should enable her to assign "I" grades, like other grades, at her discretion.

Such policies should allow an instructor to convert an "I" she has assigned to a student into a conventional letter grade if she is able reasonably to assess the student's SMC. They should not require that the "I" become an "F" after a specified deadline. If they do, they clearly violate the PAE. An "F" grade for a course implies that the student is incompetent with respect to the subject matter of the course. But in the case of an Incomplete grade, whether a student lacks SMC is indeterminate. To imply that the student is subject matter incompetent would be inaccurate, and therefore a violation of the PAE. The PAE requires that the "I" designation remain on the student's transcript until cleared.

The arguments against this position are, as usual, consequentialist or retributivist. The retributivist will wish, irrationally, to punish slothful students. The consequentialist will be concerned with motivating students to perform efficiently. It is good for students to be encouraged not to wait indefinitely to complete course requirements. These are not bizarre, utterly irrelevant considerations. There are genuine costs associated with adhering to the PAE. A student already taking a full load may be overwhelmed by the need to meet requirements for an uncompleted course from a previous term as well as for the courses for which she is currently registered. The threat of an "F" may motivate her to complete her work expeditiously. There is no way for this threat to be effective unless it is carried out when it is made. But when it is carried out, the instructor will be falsely declaring that she is confident that the student lacks SMC. A continued "I" grade, by contrast, will make clear that there is reason to be unsure of

the student's SMC without giving transcript readers any reason to under or overestimate it. It will also make it more likely that an instructor will obtain the information she needs to accurately to assess a student's SMC.

Policies that result in the automatic conversion of "I"s to "F"s create perverse incentives for instructors. For example, if an instructor knows that if she does not act, a student who has received an "I" may receive an automatic "F," the instructor may be inclined to assign the student a non-failing grade so she will not receive an "F". However, the fact that the student has received an "I" implies that the instructor lacks the information she needs to adequately assess the student's SMC and is not properly able to assign a grade. The odds are good, therefore, that the grade she assigns will be an inaccurate measure of SMC. Eliminating automatic "I"-to-"F" conversion rules are thus desirable because they will eliminate the temptation towards inaccuracy.

As noted earlier, however, it may sometimes be impossible for an instructor to accurately assess a student's SMC after a certain amount of time has passed. In this case, an "I" grade might simply become permanent. Because the "I" in a given course might reasonably be read as implying that there is still some possibility that a grade will be assigned for the course, it may be appropriate for institutions to assign a new "Permanently Incomplete" ("PI") grade.

#### *F. Academic Dishonesty*

Work that is not a student's own cannot reasonably be used to estimate her SMC. Thus, the PAE requires an instructor to give no consideration to such work in estimating a student's SMC. Depending on the available evidence regarding an academically dishonest student's SMC, the instructor may be warranted in treating the student's dishonesty as evidence that she lacks any SMC with respect to the subject matter of the assignment in question and is therefore warranted in giving her a failing grade for the assignment. The PAE offers no justification, however, for failing a student in a course simply because she has submitted work that is not her own. If, of course, the instructor has reasonably assigned a sufficiently high weight to a given assignment that incompetence with respect to the skills or understanding the assignment is designed to measure means the student lacks satisfactory SMC

then an "F" may be warranted. But it is warranted because the instructor reasonably believes the student does not have appropriate SMC and not because the student has been dishonest.

Giving an academically dishonest student an "F" in a course for reasons not directly related to SMC may, of course, be defended on consequentialist or retributivist grounds. The academic consequentialist will seek to deter students from engaging in such behavior; the academic retributivist will seek to punish the student for her immoral behavior. But neither the consequentialist nor the retributivist tells the truth by giving the student an "F" when her estimated SMC does not warrant an "F," and the moral values both seek rightly to take seriously are incommensurable with SMC.

One sort of exception to the general rule that academic dishonesty does not, in and of itself, justify failure may be available under limited circumstances. Recall that the PAE authorizes instructors to take their own convenience reasonably into account. It is unfair of a student who has already given an instructor reason to be suspicious of her honesty to expect the instructor to expend substantial extra time assessing the exercises she submits. An instructor cannot regard concern for her own convenience as justifying her in refusing to make a good-faith effort to estimate a student's SMC with respect to the subject matter of the course. But if such an effort is rendered significantly more difficult by the student's own misbehavior, she may be authorized under the PAE to avoid the task of assessing all of the student's work in order to estimate the student's SMC and the student's grade.

Suppose the instructor knows that the student has submitted work not her own on more than one occasion. Suppose the instructor has evidence that makes it reasonable to believe that the student has done the same thing on other occasions, even though she lacks proof (in such a situation the instructor may not need to investigate every exercise—only a representative sample). Suppose, too, that she reasonably assumes that the student lacks SMC in many, or all, of these cases. And suppose that the student's presumptive lack of SMC in these cases means that the instructor lacks SMC with respect to the subject matter of the course. In this case she might reasonably fail the student without an across-the-board assessment of the student's SMC, providing she could



document her reasons for analyzing the situation as she does in a publicly defensible way.<sup>49</sup>

The PAE does not license an instructor to withhold all credit for an assignment unless she reasonably believes the entire assignment is not the submitting student's work or cannot reasonably and conveniently determine which part is and which part is not the student's work. An assignment only partially a student's own work can still help an instructor to estimate her student's SMC. An instructor is not obligated to make special effort to determine which elements of an assignment are and are not products of the student's work, but if she can do so easily, she should take what the assignment tells her about the student's work into account when determining the student's grade. If not, of course, she is entitled to assume that none of the assignment is the student's work and that the student lacks SMC.

It is certainly appropriate for an instructor to require a student who has submitted work not her own to complete substitute work, if an alternative assignment will make it easier for the instructor to estimate the student's SMC. An instructor may reasonably decline to consider additional work if doing so would cause her substantial inconvenience.

The PAE offers no justification for regarding as academic dishonesty a student's submission of the same work in more than one course. There is nothing dishonest about submitting a paper to multiple instructors. If a student gives a paper or

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49. The appeal to convenience here and elsewhere is not an attempt to bring retribution in through the back door. The instructor who takes her legitimate convenience into account in deciding not to review all of an academically dishonest student's work need not be intent on causing the student purportedly compensatory harm for her dishonesty. The instructor's purpose may be only to reduce her own inconvenience; the harm to the student may be a foreseen but unintended byproduct of her decision to minimize her inconvenience.

The distinction between intended harms and foreseen but unintended ones is central to the so-called "principle of double effect." For a careful defense of the distinction, see John R. Searle, *Rationality in Action* 263–66 (MIT Press 2001); on the principle itself, see Warren Quinn, *Morality and Action* 175–97 (Cambridge U. Press 1993); Lucius Iwejuru Ugorji, *The Principle of Double Effect: A Critical Appraisal of its Traditional Understanding and its Modern Reinterpretation* (European U. Stud. Ser. No. 23, Theology, Vol. 245, Peter Lang 1985); Joseph M. Boyle, *Toward Understanding the Principle of Double Effect*, 90 *Ethics* 527 (1980); Germain Grisez, *Toward a Consistent Natural-Law Ethics of Killing*, 15 *Am. J. Juris.* 64–96 (1970); and Jeffrey M. Ross, *Proportionalism and the Principle of Double Effect* (unpublished M.A. thesis, Graduate Theological Union 1994) (on file with Graduate Theological Union Lib., Berkeley, Cal.).

project to an instructor, the student represents it as her own work; the student should not be understood to be making any representation about the amount of effort invested in preparing it.<sup>50</sup> While many institutions regard multiple submissions as academically dishonest, it is hard to defend the judgment if a grade is understood to serve as an accurate estimate of SMC. Provided a paper or project genuinely reflects a student's SMC, an instructor may not reasonably take it into account when determining a student's grade, whether or not it has been submitted to another instructor. A grade is not, again, a reward for effort, so the fact that a student who submits a paper or project to multiple instructors does not work as hard as another is irrelevant.

An instructor might argue that she should not give credit for a multiply submitted paper because her grades are based on comparisons among student performance levels, and since students in general have had less time to invest in other projects for her class, a student who reuses a paper or project prepared for another class has an unfair advantage over her classmates. However, comparisons among classmates can provide only a rough basis for grades. The instructor must be aware of the general population of students transcript readers are likely to evaluate, comparing her students with them rather than with each other. The grade distribution for a class of exceptionally gifted or exceptionally untalented students surely ought to be quite different than the grade distribution for a class of normal students. Provided an instructor has an appropriate reference group in mind when she assigns grades, intra-class comparability problems are less likely to arise.

Of course, the comparability problem also arises in a slightly different way. A student can obviously invest more time in a single paper or project submitted in multiple classes than she can in either of two different papers or projects. An instructor obviously has good reason to take this fact into account when using a multiply submitted paper or project to estimate the SMC of the student submitting it. Further, an instructor may wish to take into account the amount of effort a student has invested in the preparation of a paper or project in

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50. This is true, at any rate, absent an instructor-specific stipulation that submission of a project or paper implies that it has not been submitted in fulfillment of any other academic requirement. It is, of course, the appropriateness of just such stipulations that is in question here.

order to compare her with her classmates. But the instructor can do so, not by labeling a student who submits a paper to multiple instructors dishonest, but simply by asking whether a paper has been or will be multiply submitted and giving the information provided by the student appropriate weight as the estimates of the student's SMC.

An instructor cannot ensure intra-class comparability by prohibiting multiple submissions, since a student might submit for a given class a paper never used to fulfill a requirement for any other course which she had nonetheless written before the class began. Similarly, a student who had never received another instructor's formal evaluation of a paper or project might—and should—have drawn on the critical comments of others before submitting it for a class. Given that these practices are not in question, it would seem inconsistent to regard multiple submissions as inappropriate.<sup>51</sup>

Academic dishonesty is repulsive. It ought to be discouraged. But it should not be discouraged through grading practices that are themselves dishonest and unfair and fail to respect the PAE's requirement that grades reflect SMC as accurately as possible.

### *G. Extra Credit*

In accordance with the PAE, an instructor ordinarily has no reason to give extra credit work. If her evaluative instruments are adequate, then she does not need further exercises to determine students' SMC. And because a grade is not a reward for student effort or work, but an estimate of SMC, the mere fact that a student has done additional work is no reason for her to receive a better grade than she would otherwise have earned. Indeed, allowing a grade to be influenced by extra credit can result in grade inflation that makes the grade significantly less accurate and less useful to transcript readers.

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51. An objector could, of course, argue that these practices, too, should be prohibited. But ruling out the solicitation of critical feedback on written work from peers and other instructors would mean eliminating a valuable part of the learning process: students often learn as much from informal conversations as they do from formal lectures and providing commentary can be as useful educationally as receiving it. Prohibiting the submission of written work completed before a course but not submitted for any other seems arbitrary and appears to punish the creativity and penchant for independent thought evinced when a student completes serious academic work on her own

Only if an exercise is unnecessary to the accurate assessment of a student's SMC, but nonetheless provides information that makes an instructor's positive evaluation of her SMC more accurate, is awarding extra credit for its completion appropriate.<sup>52</sup>

#### IV. CONCLUSION

The PAE calls for instructors to grade with the goal of telling the truth to potential transcript readers and to take seriously the incommensurability between SMC and other characteristics of students that become apparent in the course of teaching and evaluating them. In accordance with the PAE, an instructor should decline to take a student's attendance into account when determining her grade—though she may consider what the student says when participating in class discussions as a source of information about the student's SMC. She should not base her grades on activities that do not yield outcomes she can use to estimate student performance, and she should give more weight to examinations and papers than to RSEs, ideally not taking RSEs into account at all when determining grades. She may reasonably consider a student's reflections on service-learning experiences when she estimates the student's SMC, but she may not base a grade simply on the student's *participation* in service-learning activities. She should, in general, avoid allowing the time a student's work is submitted to affect the student's grade. She should be free to make grade changes and replace "Incomplete" ("I") grades with letter grades at any time if doing so will help ensure that the grades given more accurately reflect her students' SMC. And while she should refuse to consider work that is not a student's own in determining the student's grade, she should not use a grade as a means of expressing moral disapproval of a student's dishonesty or as a means of encouraging student

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52. This judgment at least raises questions about Schrag's proposal that instructors should allow "students to earn extra credit by choosing to expend additional effort on work that meets some minimal level of quality." Schrag, *supra* n. 20, at 71. Increasing grades in response to student effort will often be deceptive and involve attempts to commensurate the incommensurable. As Schrag observes, until transcripts reflect effort or other factors in addition to SMC, "the egalitarian instructor must decide whether to give priority to supporting egalitarian justice or to avoiding deception." *Id.* at 73. Of course, extra work may sometimes signal that additional SMC has been acquired; if it does, a higher grade would obviously be appropriate.

honesty.

Many instructors currently do things that violate the PAE. I suggest that this reflects their probable acceptance of two possible theoretical accounts of the logic of grading: academic consequentialism and academic retributivism. Neither of these approaches is plausible. Consequentialism is unworkable and incoherent; in addition, academic consequentialism leads to results which most academics are likely to regard as counter-intuitive. Retributivism appears plausible only because of an illegitimate transplantation of economic modes of thought into non-economic realms of life. And academic retributivism violates the PAE's incommensurability requirement since it attempts to make grades into expressions of moral judgment, despite the fact that moral worth is incommensurable with SMC.

Endorsing the PAE does not mean that the concerns that lead many instructors to violate it are illegitimate. It is important to motivate student behavior, to restrain dishonesty, and to reduce inconvenience. But it is also important not to do so at the expense of accuracy and fairness. Thus, in particular, the PAE is perfectly compatible with a strategy for student evaluation that involves retaining grades as measures of SMC while also involving the assessment of students' effort and character. It would be possible to note that a student was intelligent but lazy or hardworking but a slow learner. It would be possible to indicate that the student performed well on examinations but wrote less satisfactory papers, or *vice versa*. It would be possible to report that a student was academically gifted but personally immature and insensitive, inclined to making cutting remarks to others in class. Nothing prevents an institution from attaching to a student's transcript a notation highlighting a student's hard work in a given course, making a transcript reader aware that she suffered from exceptional personal stresses during a given term, or indicating that she was academically dishonest when preparing work for a particular course.<sup>51</sup> Providing such information separately

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51. See Cahn, *supra* n. 22, at 107 n. 4; see also Schrag, *supra* n. 20, at 72 ("[G]rades that do count effort convey misleading messages to third parties and are reprehensible on that account from the ethical point of view. My proposal to solve this problem cannot be adopted by the individual professor but requires institutional action, making the effort-based policy more transparent. For example, the transcript could indicate by an asterisk any grade earned by producing additional work not required of

would be more useful to transcript readers than attempting to make grades communicate diverse and incommensurable sorts of information.<sup>52</sup> And it would remove the pressure on instructors to craft arbitrary ways of commensurating incommensurable factors when determining students' grades.

Respecting the PAE is also consistent with instructors' legitimate self-concern; an instructor can adhere to the PAE without inconveniencing herself excessively to accommodate students who have been irresponsible. While an instructor ought not to mislead transcript readers, she is not obligated to do anything and everything possible to determine the truth. Provided she does not use inaction for the sake of convenience as an excuse to punish students for morally problematic behavior, the instructor is certainly free to take her own convenience into account when determining when extra effort is and is not appropriate.

The PAE challenges instructors and institutions to take accuracy seriously. It challenges instructors to grade students in ways that will be most useful to transcript readers, and thus most fair to students. It challenges instructors and institutions to respect the differences between academic and nonacademic factors. It therefore calls on them to exhibit in their grading policies and practices the commitment to truth and fairness that is at the heart of the academic enterprise. It therefore provides useful guidance for institutional decision-makers. In the limited number of cases in which courts appropriately address grade-related issues, it may help them to think more clearly about instructors' and institutions' policies and practices. Of course, courts will not typically be situated appropriately to second-guess instructors' and institutions' grading decisions. When they decide to review such decisions, however, the PAE may provide them with a useful basis for evaluating the accuracy and fairness of judgments about grades.

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all students.”).

52. It might even have a greater deterrent effect on irresponsible students. An academic dishonesty notation on a student's transcript may be far more threatening to her academic or professional future than a low grade. The proponent of the PAE can welcome this deterrent effect even though she does not regard deterrence as itself an appropriate basis for assigning grades.