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To be morally instructive school disciplinary codes should separate three types of infractions – moral, derivatively moral, and conventional. The derivatively moral includes rules that while not moral in isolation – eating outside the cafeteria – become imbued with moral attributes under particular interpretations; conventional wrongs have no moral valence but are rules designed for orderly school management. Sanctions, too, should be applied differentially according to category of infraction. Punishment, if used, is appropriate only for intentional moral wrong-doing, connected to acknowledgement of culpability, and conditional upon a clear articulation of the school's moral objectives that is persuasive to children and the community.

Disciplines

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Comments

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Abstract

It is argued that current school disciplinary policies are ineffective instruments for delivering moral messages: they are poorly justified; fail to distinguish moral violations – violence, vandalism, deception – from conventional school-limited violations – attendance, dress codes, eating venues – leaving the impression that dress code violations and forgery are equivalent; conflate sanctions, including presumed punishments (detentions and suspensions), with other forms of corrections (conferences, positive and negative reinforcement) and apply them without distinction to moral and non-moral wrong-doing.

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If schools take seriously the moral development of students, their discipline policies should be a conduit for moral instruction. Because discipline is central to a school's ethos, if rules and sanctions are perceived as irrational, trivial, unfair, or arbitrary then other school efforts to support a moral outlook will likely be dismissed.

The argument of this paper, that the moral component in current discipline policies is badly muddled, rests on disciplinary theory as well as a study of 50 codes of conduct collected in Pennsylvania and a scattering of other American states. While the codes are neither a random nor complete sample of area schools, their striking similarity (in the enumerated offences and sanctions) provides a rationale for generalizations. Because discipline policies are weakly linked to the moral and educational purposes of schooling, there is little to break rule proliferation and coercive practices. Further, the rules and sanctions within the codes fail to distinguish moral from non-moral transgressions. When all peccadilloes are perceived as morally offensive and responded to with punishments or, contrariwise, no behaviour is deemed morally offensive, worthy of more than a corrective then, either way, discipline codes become trivial, losing potential moral clout.

To counter these obstacles, it is suggested, discipline policies should distinguish offenses that offend the core of a schools (and society's) moral foundations from those situational and alterable rules that are merely instrumental to the institutions' smooth functioning. Once distinctions are made sanctions can be aligned and punishment restricted to genuine moral violations.

Discipline's weak warrant

School discipline appears to rest on three justifications: Discipline is intrinsic to academic mastery, embedded in the learning process itself; it establishes order in the classroom and order is the gateway for learning; it is an independent good – no school discipline, no obedience, no self-discipline. The first rationale, while adequately narrow, is largely disregarded by contemporary discipline policies, the other two are of questionable merit.

Intrinsic to academic learning. Discipline, according to the highly regarded educational theorist R. S. Peters (1967), is submission to rules.

The rules may be those of what is learned, e.g., the rules of grammar or of morals; they may be those of the method of learning, e.g., rules of practice and training; or they may be more general rules necessary for something to be learned, e.g., rules relating to silence, posture, and diet. ...

'Discipline' is thus a very general notion which is connected with conforming to rules (pp.173-174).

Recasting Peters' description, we can consider "rules" in terms of their proximity to an enterprise. At one extreme, not mentioned by Peters, discipline is the enterprise itself: knowledge domains – music, math, psychology, philosophy. Slightly removed from discipline as the enterprise is what Howard Gardner (2000) calls specialized "ways of thinking" (p.117), "habits of mind" (p. 125), and "modes of analysis" (p.145) associated with knowledge fields (Peters' what is learned). It is the methodology of a field or the discipline of a discipline. Gardner

singles out science, mathematics, art, and history as examples of different domains, each with its particular disciplinary approach to investigation.

Somewhat further detached from the endeavour discipline is an instrumental resource to fulfill a project, what John Dewey refers to as "mastery of the instruments of action" (1991, p.106) (Peter's "rules of practice and training"). It is the skill that aids us in performing a task – the cobbler, becomes proficient at cutting leather, the musician practices the rules of harmony, the athlete drills in the techniques of his sport. Discipline without an intimate connection to a pursuit – a stand-alone habit (as in self-discipline) or submission to legitimate authority – is rejected by Dewey. "It goes without saying that discipline cannot be an end. We do not want discipline for the sake of itself, we want discipline for the sake of something else" (1966, p.106).

For Dewey discipline is inseparable from the interest and attention a child brings to an endeavor. It is the thoughtful, honed, and steadfast manner of conducting a task achieved when a child's desires are connected to, and shaped by, an educational objective. As rules are contained within a game, so discipline should be contained within an experience (Dewey, 1938).

Order: Gateway to learning. A more modern interpretation decouples discipline from its close internal connection to particular endeavours considering it a precondition for *all* endeavors (Peters' "more general rules necessary for something to be learned, e.g., rules relating to silence, posture, and diet"). The "more general rules," what Dewey (1954) and Emile Durkheim (1961) call "school rules," do not emerge from the task but from the authority of school personnel.

According to this take, silence, posture and diet, (attentiveness, persistence, restraint in today's language) are gateway virtues for all learning.

As discipline is distanced from the learning task and rests increasingly on the discretion of an authority, constraints on rule-making grow softer; both rules and rule-maker appear more *ad hoc*. Many, for example, will disagree that silence, posture, diet, even persistence and self-denial, are mandatory for learning. There is nothing to prevent good education in a noisy nudist colony. However, once school authorities justify the "general rules" of their choosing as promoting an essential tone – quiescent, orderly, controlled – required for education, limits on discretion dissipate. A major claim, often stated in preambles to disciplinary codes, is that rules are justified by the need for order, with order an obvious condition for learning.¹ As one district explains:

"*Order* and discipline are essential to an effective, educational environment. A structured atmosphere of *order* and discipline allows constructive individual expression....The School District believes that everyone in the school community must play a role in contributing to an *orderly* environment and also believes that an *orderly* school environment requires a code of conduct" (emphasis added).

Independent good. From rules justified by order, it is a small step to rules justified for their own sake: Arguing with a teacher is condemned because it is discourteous; that is sufficient. Tardiness, talking in class, chewing gum are disruptive and disrespectful. Sporting a short hem line is immodest. It is admirable to obey the dress code, keep quiet, restrict food to the cafeteria

without further instrumental justification. With this rationale any rule will encourage restraint, delayed gratification, inhibition, and moderation as does the very act of submission. And any resistance or disobedience signals insufficient restraint.

The infusion of school rules with elevated moral status was central to Durkheim's classic work on school discipline. He believed that "discipline has a social usefulness in and of itself, quite apart from the behaviour it prescribes" (1961, p.37). Whatever the teacher determined to be the proper "rules of conduct" children should obey, for without discipline the classroom "degenerates into unwholesome ferment, and a genuine demoralization sets in" (1961, p.151). Only by subjugating the will to restrictive obligatory rules can the child come, eventually, to exercise "effective autonomy." Discipline, then, as a restraint against natural impulses rather than "for the sake of something else" (Dewey, 1966, p.106), becomes an essential ingredient of moral development; the more of it the better. It is a view upheld by many today (Wynne and Ryan, 1997).

Moreover, as obedience to rules overshadows their content, the focus of discipline increasingly shifts to sanctions – the procedures of enforcement. As Charles Wolfgang, in a major text on the subject, writes: "Discipline is the required action by a teacher or school official, toward a student (or group of students), after the student's behaviour disrupts the ongoing educational activity or breaks a pre-established rule or law created by the teacher, the school administration, or the general society" (1999, p. xi). The rules are self-justifying;

the teachers' task is to exact compliance. (See Alfie Kohn, 1996, for a rich critique of this position.) Discipline becomes the procedure of sanctioning.

With this move we have arrived at the far end of the continuum: discipline is not the endeavor itself (the discipline of music), not "ways of thinking" (Gardner, 2000, p.117), not "mastery of the instruments of action" (Dewey, 1991, p.106), not even habits of restraint or self-control (Durkheim, 1961). It is the enforcement of sanctions securing submission to rules. Submission presumably produces a tone of self-restraint and orderliness in the school. Establishing the tone, in turn, enables the child to be taught the techniques of a subject. Finally, learning the techniques permits the child to adequately explore the subject matter (music) or activity (sport). The sequence of enforcement → submission → restraint and orderliness → skills → subject matter conveys the large justificatory burden of a discipline centered on sanctions. It is a long leap from imposing a detention for repeated dress code violations to solving a math problem.

Merging rules and sanctions

Consider two hypothetical high school students, Susie and Sarah, both disciplinary problems but highly dissimilar in their offenses. Susie, preoccupied with her friendships and indifferent to her studies, is chronically late for school and often for class, wears skirts that sometimes fall short of the allowable dress code limits, and snacks outside the cafeteria. Otherwise she is well liked, cooperative, and the first to volunteer for chores or new initiatives. Sarah, academically ambitious but not conscientious, plagiarizes papers from the internet, and is not above forging an excuse note when she is unprepared for a

test. She is cynical about school, seeing it as a way-station to college which is where her attention is directed. Yet the children receive similar discipline. Susie receives a one day internal suspension for an unexcused absence or for eating outside the cafeteria twice (a third time results in a two day suspension). Sarah receives a one day internal suspension for forgery (on the second occasion; two days on the third). Plagiarism nets a two day internal suspension (second offense). School B is more apt to give detentions than suspensions, but again offenses are lumped. A three-to-five day detention is given to Susie for breaking the hem line rule (third occasion), for school tardiness (fifth occasion), and to Sarah for fraud or cheating (first occasion). In School C, Susie's violation of the dress code would warrant a Saturday in-school suspension (third occasion) as would Sarah's forgery (second occasion). For dishonesty in her work she simply gets no credit and that not until her third violation.

While Susie is breaking school rules, tardiness, dress indiscretions and eating fall into what Larry Nucci (1989, 2001) and Elliot Turiel (2002) call the conventional, rather than moral, domain; they express customary values of a particular institution without the universality attributed to morality. Contrariwise, Sarah's actions are clear moral violations; they injure the integrity of her relationship with the teacher (who assumes the papers are her own and the excuses signed by a parent) and give her an unfair advantage. One could imagine a school that stressed morality yet permitted Susie's behaviours but not one that permitted Sarah's. However, when it comes to consequences there is no

distinction in the type of sanction administered to each girl and rather little in amount; any moral messages are thereby muted.

Although schools tend to collapse moral and conventional offenses, they do have ways of categorizing misbehaviour: by place of occurrence, who sanctions (teacher, administrator, police), degree of disruption, type of measure, sometimes alphabetically. Sanctions increase when the behaviour is more frequent, visible (out of the classroom), disruptive, and criminal (drugs, tobacco, weapons, assault, vandalism, setting off fire alarms). There is thus, at least impliedly, a gradation of punishment that parallels degree of wrong-doing. Still, cheating, plagiarizing, tardiness, and dress offences are regularly bracketed together in the codes, usually at a low level of seriousness.²

Just as the distancing of discipline from learning opens space for moralizing rules, so too the distancing of sanctions from rules opens space for moralizing sanctions. Detentions and suspensions appear to be punitive, not problem solving, approaches. A school disciplinarian has condemned the child, separated her from the group, and restricted her movement. The primary message sounds like: “this is what you get for doing x” rather than, “what’s the best way to help you not repeat x”?

In contrast to other sorts of correctives (discussion, assistance, suggestion, natural consequences, positive and negative reinforcement), the resort to punishment gives school sanctions a moral imprimatur, for punishment is usually associated with moral culpability, and presumptively experienced as such (following John Kleinig, 1973). It is a tool for society's expression of

“attitudes of resentment and indignation, and of judgments of disapproval and reprobation, either on the part of the punishing authority himself or of those ‘in whose name’ the punishment is inflicted” (Feinberg, 2000, p. 689). Punishment is intended to uphold the moral order and restore the moral balance through infliction of just deserts. “Punishment’s real function is not that of crime control, in terms of which it is rather ineffective, but rather that of moral affirmation” (Garland, 1999, p.24). Punishment may also have the effect and intention of reform (rehabilitation) or deterrence (stopping future harm), but these are secondary to its retributive intent (some would say that is its only purpose; see Moore, 2000).³

While detentions and suspensions fit the description of punishment, yet are employed by schools for non-moral offenses, each of the schools in our scenario initially respond to first or minor offenses with other, seemingly rehabilitative, resolutions – conferences, behavioural contracts, reprimands, withdrawal of privileges, work details, anger management, peer mediation, social skills training, guidance counselor, school nurse, student assistance resource program, or outside mental health referrals. At the start of the disciplinary process, at least for the wrongs of Susie and Sarah, there is an attempt to understand cause, motive, and circumstance. However, as the number of recurrences mount, sanctions become more draconian and judgments more moralized. The behaviours now are instances of wrongfulness that threaten the viability of instruction, the welfare of other students, and the institution itself. Punishment is deemed the proper response to these threats. School B is explicit

in stating that when an offence is more frequent than covered by the 3-5 day detention level, it is considered an act of “insubordination.” What the forger and dress code violator share is noncompliance; the noncompliance threatens the institution and deserves punishment.

Frequency may serve bureaucratic convenience but it is a poor measure of moral culpability. Granted, a behaviour does appear more morally offensive as it recurs. One is prone, for example, initially to judge a dress code violation as the child’s oversight, carelessness, maybe a momentary protest. With repetition it becomes disrespectful and defiant; an escalation of sanctions seems appropriate. There are everyday parallels: park overtime and receive a ticket, fail to pay the ticket(s) and receive an added penalty, become a scofflaw and serve time in jail. Whatever the reasonableness of frequency as a scale for calibrating degrees of condemnation and sanctions, alone it is insufficient. We recognize a categorical difference between over-parking and reckless driving; so too we must acknowledge that dress code violations and forgery are differences in kind.

Conflating conventional with moral rules and rehabilitative with punitive sanctions appears to moralize the entirety. One could, however, make the opposite judgment: all discipline is assimilated to the conventional. Code preambles, for example, may justify respect for property not as an ethical obligation but as a means of achieving order. Plainly property rights would be enforced as stand-alone moral values even if they were irrelevant to an orderly environment, yet schools resort to the amoral language of order perhaps out of discomfort with "punishment" (and "moral").

Discipline codes stress an anti-punitive approach: "Positive rather than negative measures shall form the basis of our disciplinary procedures," says one district. Another: "It is the position of the school that the punitive aspect of discipline should be a last resort." And another: "The disciplinary process is intended to be instructional and corrective, not punitive." The codes prefer such terms as, "disciplinary response," "disciplinary action," "disciplinary consequences," "penalties," "procedures," "interventions," "options," "measures." Consequences may be administered for inappropriate behaviour, dress, and language; for disrespect, intended deception, property damage, plagiarism, and theft thus merging the moral into the non-moral. Reducing discipline to classroom management avoids punishment but reduces its moral clout. (For a thorough contemporary discipline review see Bear, 1998).

Separating punishment from deterrence and rehabilitation, and moral from conventional rules would clarify the differences between moral and conventional rules for students.⁴ Punishment, whose primary purpose is to alter conscience rather than change behaviour should be *considered* only for the former. The question outstanding is whether the necessary distinctions *can* be made? Take, for example, the matter of tardiness. For John Dewey promptness serves the convenience of the school not the betterment of the child (1954), hence it is merely an administrative convention. But is that right? For Emile Durkheim (1961/1925) promptness is character building and a school's moral obligation to enforce.

Making distinctions: The derivatively moral

For some tardiness is a moral wrong; for others a conventional wrong; for still others no wrong at all. Nel Noddings, proponent of the ethic of care finds tardiness unworthy of rule-making. Writing of her own experience she explains:

Periodically, high school faculties become upset by student tardiness to classes. A crackdown usually results in careful record keeping and prescribed penalties. The name of every tardy student is listed on a slip that is collected and recorded in a central office. I resisted this practice. I told my students that I would start on time and that I expected that they, too, would be present and ready for action. I suggested that we leave a few seats near the door for those who might be unavoidably late. Latecomers were to take seats quietly and wait for a break in procedures to ask their neighbors what they missed. This worked well. Kids responded with respect to my respect for them (2002, p.202).

When students are persistently tardy, teachers of Noddings' perspective might investigate possible causes – the school schedule is too tight, conditions at home are chaotic, the child is not a good judge of time, is academically weak and reluctant to attend class – all potentially resolvable problems. The lateness is a problem to remediate, not a wrong to punish.

Those who put a higher premium on promptness, yet still see it as serving school routines, will establish rules with non-punitive sanctions such as allowing a tardy child to join the group, perhaps with a request to be more mindful in the future. According to this view, tardiness is distracting and bothersome but merits

no more moral obloquy than lateness to a public event: delay in admission. If lateness persists, the child might be excluded from class with no provision for make-up work, but not detained or suspended. Hopefully, the natural consequences – missing instruction, doing poorly on a test, the displeasure of classmates – will exert a remedial influence.

A third teacher believes that tardiness is moral misbehaviour. For her, promptness is not only integral to the development of good work habits and required for worldly success, but central to the schools ethos, an obligation arising from society's compulsory education mandate. The child who "gets away" with lateness not only compromises this mandate but is a free-loader for pervasive tardiness undermines the entire curriculum and schedule. Tardiness also derogates a teacher's status and the worth of her teaching. One with this mind-set has a high threshold for exculpating explanations. While wanting to be sure the tardiness is within the child's capacity to prevent, the presumption would be that the child is not taking responsibility for a major social obligation. As incidents accumulate, the teacher interprets them as defiant and insolent, undermining the authority and obedience she is due. Rather than ignore lateness or apply natural consequences, she prefers, as do Wynne and Ryan, "for the school and the teachers to establish a simple, unpleasant, and prompt system of consequences for tardy students" (1997, p.90). "Unpleasant," one assumes, because deserving of punishment.

There is legitimacy to the interpretations of our third teacher as well as to the others. But note they are *interpretations*. Unlike "busting" a kids' nose, the

harm of tardiness usually resides in the perception; it is indirect. While insolence belongs in the moral realm – it intentionally injures – merely entering a class late, even repeatedly, need not be so interpreted. We must distinguish direct indicators of insolence – the child mocks the teacher, disrupts activities, projects an unmistakable “attitude” – from an assumption of insolence premised simply on a rule violation. Is a child insolent who despite repeated instruction always has a sloppy desk? Perhaps, if his resistance is intended as impudence; perhaps not, if he is skill-deficient, forgetful, or unmotivated. Is a child insolent who chews gum, is told to get rid of it, and repeats the offence? Chewing gum may be repugnant to the teacher, messy, in bad taste, but to the child the prohibition is silly and the violation not intended as an insult. There are multiple explanations for repeatedly disregarding instructions, insolence is only one.

Teachers, one must appreciate, are under substantial duress from children’s behaviour. According to a survey by the nonpartisan opinion research organization Public Agenda, “1 in 3 teachers say they have seriously considered quitting the profession – or know a colleague who has left – because student discipline and behaviour became so intolerable” (2004, p.3). Who would blame them for being hyper-alert to mischievous, provocative, and disobedient children, even excessively zealous in reading insolence into noncompliance? But the hazard of overdoing the “bad kid” response is that one may instigate the very behaviour one is trying to eliminate. That is not to say rules regarding gum chewing and orderly desks should be abolished, although all conventions should be regularly reviewed. Rather, because in themselves they are conventions

without moral valence, without a clear indicator of insolence, they fall into the problem-to-be-solved category, not the wrong-to-be-punished. The same, I believe is true of tardiness.

Tardiness, along with many school rules (dress codes, eating in class, talking in class, street language), occupies a gray area between the clearly moral and the clearly conventional, what can be called the *derivatively moral*. Rather than a direct and intentional harmful act, it is ambiguous behaviour relying heavily on interpretation for its moral status. The teacher either infuses the act with a moral judgment or takes moral offense from the repetition of the act. A derivatively immoral act, highly reliant on circumstances and motives, should not be treated as intrinsically immoral, something to be prohibited and punished categorically; it requires a case by case examination. By contrast, a forged note dupes the person whose name is forged and the recipient. It gives the forger an unfair advantage. The duping, the advantage, and the breach of trust apply as well to most cheating, stealing, and lying. These wrongs do not have to be *interpreted* as hurtful, they are inherently so, just as delivering (purposefully) a punch in the eye or taunting the disabled. Beyond harm to individuals, and to a much greater extent than tardiness, such offences tear into the social contract that binds the community.

The derivatively moral is the transformation of a conventional rule, perhaps important to the smooth function of an institution, into a moral transgression. Restricting eating to the cafeteria, for example, may be critical to a school, yet still a rule of convenience. One could imagine another school that,

without undermining student morality, allows children to snack in classrooms. When teachers say, as they often do, “I don’t care what you do outside of school but here the rule is ...” they implicitly recognize the localization (conventionalization) of school rules. It is unlikely they would say, “I don’t care if you bully, cheat or steal outside, but in school it is not allowed.” However, repeated violations of a cafeteria-only eating rule comes to be understood by school authorities as disobedience, and failure to obey the rule (or the authority) as insolence.

The charge of insolence from repeated violation of a rule is one route by which a *sometimes* immoral act can be converted into a *categorical* moral offense. The transformation may also occur when moral coloration is given to a morally ambiguous norm. Our third teacher above, for example, believes that tardiness, like lying, violates the moral order; others do not. Many disciplinary rules fall into a moral penumbra: moving about the classroom, passing notes, talking out of turn, talking too loudly, not holding doors. While at most only mildly injurious to others, they can be judged inconsiderate. Some schools might allow such behaviours while prohibiting the more obvious moral offenses – bullying, cheating, stealing, lying, vandalism. Even “bad” language, a serious misbehaviour for most schools, is often derivatively, not inherently, immoral. If using “fuck” is part of your speech pattern, not intended as an insult, there’s no harm. The harm resides in the teacher’s finding it offensive or insulting. That it is “inappropriate” at school, a cause for rejection in applying to jobs, or irksome to

teachers does not make it immoral until it is so interpreted. As with tardiness, bad language *can* be directly abusive, it is just not necessarily so in all instances.

In practice it may be extremely difficult, at times impossible, to delineate the derivatively moral; so much depends on context and motive. When for example is a teacher entitled to hold a child morally accountable for offending her? What if he takes issue with a historical analysis she makes? Still, the category merits attention for so many school offenses fall within this domain. They are what give an accordion structure to school morality, expanding and contracting at adult discretion.

Yet we cannot ignore the fact that some *are* offended by the language, dress, and tardiness of others either because they demonstrate insolence when repeated or, as they judge it, are moral failings. The teacher might have chosen to interpret the conduct otherwise, but hasn't. When a child persistently offends, he is not blameless. The harm, of course, may be justified by another value, say free speech, or it may be unintentional. More likely it is the product of insensitive carelessness. Carelessness then drifts into indifference, indifference into insolence. Unwillingness to bend to the scruples of one's teachers, unless those scruples conflict with one's own – not likely with tardiness, language and dress – is morally insensitive. The derivatively moral is both derivative and moral.

Adults, however, need to be cautious in making the "you are insolent" or "I'm offended" claim, for these judgments will serve as cover to justify any rule, any sanction. Exacting submission to weakly rationalized authority undermines the deliberative process. Better children should reflect on the moral status of

tardiness and the appropriate sanctions than receive automatic detentions because the teacher, using a derivatively moral argument, insists. As the educational philosopher Roger Straughan reminds us, “nothing is ever made right by someone *saying* it is right” (1988, p.6). “[A] system of control which tries to transmit a particular code of conduct to children, simply by pointing to the fact that that code is prescribed by some authority, cannot claim to be doing anything that can be called either moral or educational.” (1988, pp.76-77).

We pay a price, then, for upholding too high, as well as too low, expectations of considerateness. To act selfishly is part of the human condition. Every time we fail to recycle waste, overuse gas or water, exclude an acquaintance who would wish to be included we are “inconsiderate.” Children should not, but often are, expected to be kinder than adults.

Making distinctions: Sanctions as punishments or penalties

The moral, derivatively moral, and merely conventional can be made distinguishable to students through sanctions. Punishment, in its purest sense, has the following reciprocal characteristics: The punisher’s intention is to denounce a student’s wrong-doing and to prevent erosion of the community’s fundamental values, erosion that will occur if moral violations go unpunished. The recipient acknowledges culpability and experiences remorsefulness; there is rebalancing of the moral scales, and reaffirmation of the standard that was violated. If a student is indifferent to the condemnation – indeed takes pride in disobedience – and indifferent to the restrictions (detentions and suspensions), then there may be punitive intent, but no punitive effect.

Whether detentions and suspensions, despite their appearance, are even intended as punishment is uncertain. Coming, as they often do, after a series of milder interventions have failed, they *appear* to express exasperation and rebuke, as well as a desire to protect the authority of the disciplinarian and the rule from abuse. This *could* be interpreted as punitive intent, but of a weak variety. Because the student's culpability is largely disobedience and the sanction's objective largely control, moral condemnation, if it exists, is secondary to law enforcement, placing in jeopardy the perception of punitive intent. Nor do these sanctions appear to have a remedial intent. If the objective of sanctioning tardiness is to resolve a persistent problem, suspension and detention are unlikely choices for they are unresponsive to the cause and motive. While they may deter – depending on whether the student feels liberated or intimidated by the sanction – the discipline is more temporary “fix” than resolution.

School sanctions may better be described as penalties, the payment one makes for pursuing a prohibited interest – a fine for the overdue library book. Because they are administered for non-moral wrongs and do not carry the reprobative symbolism of punishment (Feinberg, 2000), no remorse accompanies penalties. The distinction between penalty and punishment once again is perceptual. Sanctions for rule-breaking will be experienced solely as penalties unless they are accepted as moral condemnation. As P. S. Wilson notes:

One is penalized for failing to behave in a way which neither you nor your judge necessarily regard as being of any *intrinsic*

importance (e.g. feeding a parking meter), but one is punished by someone with whom one claims to share an interest but towards whom one has failed to behave in a way appropriate to the interest which you share. A penalty is a disadvantage, in respect of the pursuit of personal goals. A punishment is more likely a timely reminder of what one's personal goals *are* (1971, pp. 117-118).⁵

Neither severity nor type of sanction necessarily determines punitiveness. Any particular sanction can be punitive in some circumstances, not others, depending on intent. Take the popular device of “time-out.” Because it isolates a child who has misbehaved and deprives him of peer interaction, some see time-out as a punishment (Kohn, 1996; Preuisse, 2004); others as rehabilitative, even protective. “Time-outs,” says Ruth Charney, “can establish the safety nets and boundaries of rules, while promoting the incentive and dignity of self-control” (1991, p.94). For Charney, time-out is encased in compassion: empathy for the rule-breaker, eagerness to help the child recover control, faith in the students’ ability to return to the group. For Kohn, time-out is pure coercion, “forcing [the child] to sit by himself....telling the child, ‘Do it my way or leave’”(1996, p.46).

One suspects that for children attending U.S. public schools tardiness and improper dress rules are conventions without moral standing (see Nucci, 2001). Detentions and suspensions for breaching such rules are therefore experienced as penalties without retributive bite or remorse. The school “is merely pricing, not sanctioning, offenders’ behaviour” (Kahan, 1996, p.652); fines would do as well. Penalties do not influence character, if anything they undermine it. The child

considers only whether he wants to pay the cost of breaking the rule. If the cost is sufficiently high he refrains, but this is a purely self-interested calculation without any chastening.

Although penalties are to be avoided for moral offences, they have a role in correcting conventional wrongs. When a child forgets his pencils for the third time, the teacher penalizes him by not resupplying them; when repeatedly tardy, by exclusion from class; when repeatedly in breach of the dress code, by insisting he keep an extra outfit in his locker. There is no shame-on-you, no denunciation or outrage, just a matter-of-fact penalty intended to discourage the act.

Something else *may* be in order for the student who bullies, hurts, lies, cheats, steals, or vandalizes. If the act was committed knowingly and willfully, punishment is a candidate, but what does it mean for a child to act knowingly and willfully? To be morally accountable a student must fully appreciate the harm she inflicted and have intended the injury. The act cannot be, even partially, unwitting or impulsive; it has to be calculated. These criteria, if we follow the analyses of Piaget and Kohlberg, would largely eliminate punishment for children up to their teen years. When one incorporates such capacities as knowledge, intention, judgment, and self-control into the act, not all instances of hitting, cheating, lying etc. will be classifiable as moral wrongs. (See Goodman and Lesnick, 2001 and 2004 for a fuller discussion of moral wrong.) However, children can be knowingly and willfully malicious; therefore deserving of punishment. Waiting in the wings to

taunt and bully children with special needs fits the requirements for a punitive sanction.

Rethinking school discipline

While the Deweyian notion of discipline placed it largely outside the moral domain, its present moral status is muddled. The codes seem both to lean towards, and pull away from moralizing wrong-doing. Although obedience and control are cited as imperatives, whether they are moral values is obscure. Sometimes they appear as non-moral goods instrumental to education – one cannot learn in a disordered environment – sometimes as independent moral goods – disobedience is a manifestation of insolence. Moral fudging continues in the codes' articulation of school objectives: whether, for example, “decency” (Sizer, 1992) is a self-sustaining goal to be cultivated by the school or simply a means to sustain academic ends.

The blending of customary and moral violations, with frequency rather than content determinative of sanctions, further blurs morality, as does the selection of sanctions. Schools appear to establish an ambient morality by using detentions and suspensions to punish students for rule infringements, yet they denounce punishment. Perhaps that is just as well, for students will not *experience* punishment without accepting rules as morally binding and administrators as morally legitimate authorities.

The final confusion is the transformation of conventional rules, perhaps important to the smooth function of an institution, into moral transgressions, yielding the derivatively moral domain. While to some extent unavoidable, the

ongoing process of transformation leaves everyone in a state of limbo. When will an act be taken by an authority as insolent or inconsiderate? When will it be brushed off as unimportant or simply a custom to be followed at school? Worse, the derivatively moral has no natural boundaries permitting schools to expand their authority while compressing student opinions and options: whatever speech the teacher finds offensive is deemed insulting and therefore punishable.

While one must recognize the hubris of making recommendations free of any responsibility for institutionalizing them, the academic perch permits a perspective on ground-level practices. In that spirit, this conclusion is intended as aspirational rather than prescriptive.

If discipline is to be other than power-wielding, it must be nested in larger purposes. Schools should be encouraged to expose their moral objectives to all concerned – teachers, parents, children – and preserve them as independent of, not secondary to or rationalized by, academic pursuits – although curriculum and teaching methods are an obvious expression of the objectives. (See Goodman and Lesnick, 2001 and 2004.) Going public with the moral goals of education would afford students the opportunity to align themselves with moral purposes now obscure. Without such an alignment, students are likely to perceive much of school authority as illegitimate, punishment as undeserved, and obedience as involuntary.

As part of going public, schools also need to clarify and tighten the connection between school objectives and discipline. Offenses against school rules must be distinguished from moral wrongs such as cheating and forgery.

The blurring of ethical distinctions is extremely unhelpful to children's moral development. When tardiness and dress are made equivalent to cheating and forgery children are unlikely to appreciate any overriding claims of moral obligations. Similarly, a snugger fit between disciplinary interventions and the content of misconduct is in order. A child is persistently tardy. The question is why? Is it a problem within the family, inadequate transportation, poor scheduling, the teacher's conduct of the class, the pressure of friendships, faulty time-keeping, an "attitude"? Given the cause(s), what procedures would best ameliorate the problem? Hold a conversation with the parents, get an alarm clock, request help from a buddy, offer positive reinforcement, seat the child inside the door, count missed work against grades, require make-up work? The intent is remedial rather than punitive.

Greater distinctions in offenses and treatment would yield a fair degree of diversity, yet not complete diversity. Because people disagree on what constitutes the moral, especially the derivatively moral, some schools would place acts of inconsiderateness, for example, in the moral realm, others under school rules. Yet who would not place cheating, plagiarism, forgery, vandalism, and non-trivial violence in the morally impermissible category? Sanctions, too, with their dependence on intent and reception, would carry various connotations. We have reviewed the ambiguity of time-out, detentions and suspensions. Are they primarily penalties or punishments? Are they intended to deter recidivism, shape character, imbue remorse? Much depends on the spirit in which they are administered and interpretations made by the recipient. But the diversity of

classifications is hardly a misfortune. It responds to our moral pluralism, while the commonalities respond to our fundamental agreements.

A persuasive disciplinary policy will be restrained; adult authority circumspect, not squandered. There needs to be containment of the derivatively moral and enlargement of non-rule governed space where children can reflect, experiment, and discover. Minimizing claims of insolence and inconsiderateness, premised as they are on dubious authority, would help. Maximizing engagement of children in aspects of discipline would be another step. Class meetings, student government, student disciplinary bodies, alternative dispute resolutions contribute to the sense of “us,” so essential to the student-adult-school moral alignment.

Along with fewer rules and constrained authority punishment should be limited, for it is demoralizing to adults while promoting rebellion and alienation in students. “Wherever there is moral regulation there is resistance; whatever social forms are imposed there is human capacity to subvert and exceed their constraints” (Rousmaniere, Dehli, de Coninck-Smith, 1997, p.5). The practice of detentions and suspensions for repeated commissions of misconduct conveys a picture of schools under siege, a failed collaboration between students and administrators. Children are not *morally* culpable for most of the “wrongs” at school. Though told constantly to take responsibility for making “the right choices,” in fact, their freedom of choice is circumscribed. Over a long developmental period children are not fully independent moral agents. The “right” is largely, if not completely, heteronomously defined. They have minimal

capacities for non self-interested deliberation, and even less to join rational conclusions with actions. They are impulsive, erratic, irrational, egocentric, and easily influenced. They make mistakes because they are young, not bad. Usually our interventions should offer support and guidance. Sometimes, however, they are culpable and a just, if mild, punishment is in order.

As an example I offer the following from Marilyn Watson's recent work with Laura Ecken (LE), a teacher/collaborator. Martin, an aggressive elementary school child, repeatedly suspended, provoked a fight and injured (mildly) Jennifer. In conversation with LE the next day, Martin admits that although he was not hurt by Jennifer, she was hurt by him. Teacher and student discuss alternative ways of behaving. Then the following exchange occurs:

I [LE] asked him [Martin] to think about what he could do to make this up to her, but he couldn't think of anything. I said, 'Well, you need to sit down a little while. I want you to think about how you can make it up to Jennifer for what you did to her yesterday'....Well, he couldn't think of anything except to tell her that he was sorry. I asked if I could help him think of something more and he agreed. I suggested that he could offer to get her book box for her every day when it's time for book boxes (Watson, 2003, p.174).

When Martin did not get past, "I'm really sorry I hit you in the face and I won't do it again" (p.175), LE reminded him of the book box offer. After failing to carry it out, LE told Jennifer what Martin had agreed to and insisted Martin declare the commitment to Jennifer, which he did.

Fetching the book box seems to me a justifiable retributive punishment. Underneath the veneer of consultation, LE is imposing a demand well beyond addressing the cause or context of the conflict. To balance the wrong Martin has wrought, she deems an apology insufficient. He must perform a service for Jennifer, presumably not to his liking. Although LE speaks of the need to “make this up to her,” one is hard put to believe Jennifer cares if Martin fetches her books or not. Nor is it likely that the deed, mandated by the teacher, will salve her grievance, but this is not central. The “making up” is less directed to appeasing Jennifer than to satisfying the moral community, injured when Martin violated its values. There were non-punitive alternatives available to LE – keeping the children apart, supervising them more carefully, talking it over, getting suggestions from them, inducing empathy, asking for (not demanding) an apology. That LE went beyond them is indicative of her (though perhaps not others’) conviction that more was at stake.

A deft, moderate, tailored disciplinary policy will take into consideration all components of conduct – context, motive, knowledge, norms – as well as the moral seriousness of a child’s misbehaviour. This entails backing away from our dominant bureaucratic-centered system that calibrates sanctions to frequency of occurrence. It also demands a radical decentralization of discipline. Notwithstanding the requirements of equity and due process, and excepting behaviours that violate the law, teachers should be granted expanded authority to determine interventions. It is they who know the situation best and can make the necessary distinctions if given supplemental education to do so. It is

commonplace to read that teachers should model morality. That they should determine sanctions is less frequently asserted, presumably because we are uncomfortable leaving such judgments to the idiosyncrasies of individuals and concerned with the likely inequities in outcomes. Precautions can be taken against these risks, however, without removing disciplinary decisions from teachers. We rely on them to articulate the school's moral objectives for children and it is their persuasiveness that will determine the children's allegiance. That persuasiveness consists, in part, in how they react to wrongdoing. Rather than referring the offender to a central office, they need to show children that one has different reactions to moral wrongs – disappointment, disapproval, anger, indignation – than to time-table errors. This includes, on occasion, showing moral outrage through anger and indignation.

There are delicate uncertain lines to be drawn between moral, nonmoral and derivatively moral wrongs, between children's agency and dependency, between teacher-based and principle-based authority, between individualizing and equalizing responses, between punitive and non-punitive sanctions. Determinations will always be subject to criticism and on-going review. However, when every rule is a moral obligation and every infraction elicits moral blame, students are poorly equipped to differentiate amongst wrongs – the administratively efficient from the morally injurious – and, in any case, will have little motivation to try, for morality is trivialized when so extended.

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End Notes

¹ Although within schools authorities perceive order as an obvious requirement for learning, and so obviously justified, on the outside order has its vociferous critics. "Teachers who declare their comfort zone as one defined by quiet require of all students who walk into the classroom that they be quiet. There is no concern whether that paradigm works against students' ability to learn. Too often the methods employed to achieve a quiet, obedient classroom are detrimental to building a climate in which every student can learn successfully... Constantly quiet classrooms look as they do because the students are being controlled through fear, intimidation, frequent appeals to competition, and public embarrassment. While any of the above approaches may be deemed to 'work,' inasmuch as they are effective tools for control, they most often work against students who already find themselves on the fringe of the school's environment. While some students may be willing to bend to the control systems practiced by educators, particularly when those practices are consonant with the homes from which the students come, there are others who will view imposed, arbitrary rules as a call to arms" (McEwan, 1998, p.143).

² Of ten districts that listed rules by levels and included both cheating and dress violations, six had both at the lowest level, one listed dress as more serious, three cheating as more serious.

³ Not everyone agrees that punishment emphasizes retribution rather than deterrence. Richard Smith, for example, argues that the purpose of punishment "is to secure greater obedience to laws and rules by deterring offenders, both those who have already offended from doing so again and those who so far have not but might if not deterred" (1985, p.69). Peters (1967) also speaks to the behaviour-changing purposes of punishment. While recognizing the deterrent and rehabilitative aspects of punishment I have chosen to emphasize its retributive looking-backward functions so as to link it with moral wrong-doing. Punishing children, I believe, should be rare in school, reserved for those misdeeds that demand moral accountability; narrowing its meaning is a step toward narrowing and clarifying its scope.

⁴ Mary Warnock (1977) argues that school rules should be restricted to "convenience, safety, orderliness and other such non-moral considerations" (p.137). However, "[a] rule against bullying or theft would be an absurdity. It would suggest that the school had made the rule for some reason of convenience and that, apart from the existence of the rule, there might be nothing against bullying or theft.... A teacher would have failed in his duty if all he had succeeded in passing on to his pupils was that certain forms of behaviour were 'ruled out' (p.138)

⁵ Richard Smith (1985) takes issue with Wilson's distinction between penalties and punishments. He argues penalties are only demanded for acts that are wrongful. "[I]f I leave my car [in front of my house] for the sake of convenience, confident that police or traffic-wardens rarely come past, I am acting selfishly and risking causing an accident. If I keep my one-week loan for longer, deciding it's well worth the fine, I am keeping it from another reader who might well have planned his work on the assumption that the book would be back when it was due. Similarly with offences against the smooth running of the classroom or school: if they really matter, if for example they selfishly cause inconvenience to other people, let us think of detention or whatever as a *punishment*.... If on the other hand they matter only a little or not at all let us scrap the relevant rule or respond with remonstrance, reminder, reasoning or in some other way. Thus penalties are confusing because they convey the message that the behaviour penalized does not really matter, while the child still finds itself on the receiving end of what looks remarkably like a punishment" (p.67). I find this partially persuasive. True, penalties are given for inconsiderate behaviour but inconsideration is only a minor moral wrong. While selfishness annoys us, we are accustomed to it, granting people some moral slack. Morality slides into politeness which slides into the customary; we all draw our own lines yet agree that there is a continuum of greater to lesser offences.