

Educational Justice and School Boosting

Marcus Arvan
The University of Tampa
marvan@ut.edu

Abstract: School boosters are tax-exempt organizations that engage in fundraising efforts to provide public schools with supplementary resources. This paper argues that prevailing forms of school boosting are defeasibly unjust. Section 1 shows that inequalities in public education funding in the United States violate John Rawls's two principles of domestic justice. Section 2 argues that prevailing forms of school boosting exacerbate and plausibly perpetuate these injustices. Section 3 then contends that boosting thereby defeasibly violates Rawlsian principles of nonideal theory for rectifying injustice. Thus, boosting should be presumptively either made illegal or substantially reformed. Finally, Section 4 responds to potential objections.

Key words: education, ideal theory, justice, nonideal theory, race, Rawls

School boosters are tax-exempt organizations that engage in fundraising efforts to provide public schools with supplementary funds for projects including new playgrounds, building renovations, athletic equipment, books, teaching technology, scholarships, and education-enriching events (PTO 2015; Alvin n.d.; Los Ranchos 2019-20; New Franklin n.d.; Renaissance n.d.). In the United States, school boosting is a multi-billion-dollar industry (Parent Booster USA 2017) involving thousands of organizations (PTO 2015). Boosting comes in two forms: *booster clubs*, which tend to be legally restricted to supporting school athletics and student clubs (Cullinane 2017; NCAA n.d.), and *Parent-Teacher Organizations*, which can fundraise for supplementary educational resources more generally (PTO 2022). Boosting appears to be a well-intentioned attempt to improve educational funding in response to shrinking governmental support.

However, I argue that prevailing boosting practices are defeasibly unjust—that is, unjust assuming that there are better alternatives, which I argue plausibly exist. Section 1 of this paper details how inequalities in public education in the US violate both of John Rawls’s (1996; 1999a; 2001) principles of domestic justice. Section 2 then argues that boosting exacerbates and plausibly perpetuates each injustice. Section 3 then contends that boosting thereby defeasibly violates Rawlsian principles of nonideal theory for rectifying injustice. Finally, Section 4 raises and responds to objections, including the objection my argument has limited scope due to its Rawlsian nature. Section 4 also recognizes that there are important further questions about whether other educational inequalities are also unjust, such as private schools and use of private tutors—for, as I note in Section 4, boosting is indeed just one of many ways that the wealthy can parlay already-unjust socioeconomic advantages into further advantages. My argument, however, will be that current school boosting practices are more clearly unjust than these kinds of “private” educational advantages insofar as boosting more clearly and unambiguously impacts society’s *basic structure*. Because public education is a taxpayer-funded public good to which all US citizens are legally entitled; because it is more widely accepted than citizens have claims of justice to equal access to public goods than to private goods; and because there are ongoing debates about whether and how to properly distinguish the public from private, I contend that the case for banning or reforming boosting is clearer than for other (potentially) “private” educational inequalities.

Finally, one quick note about this paper’s broader significance. As detailed later, according to Rawls’s theory of justice, educational injustice in the US exists within a broader context of *socioeconomic and racial-ethnic injustice*, including systemic failures of the US’s basic structure to ensure the fair value of basic political rights (Bentele and O’Brien 2013), fair

equality of opportunity (Marrero and Rodríguez 2011), and fair distribution of income and wealth (Piketty and Saez 2006). Consequently, if my argument is sound, then public education reform—including defeasibly banning or reforming school boosting—should be thought of as an essential requirement of a larger sociopolitical project: justly reforming the US’s basic structure.

1. Educational Oppression in the United States

Although public education is not guaranteed by the US Constitution, every individual US state treats public K-12 education as a universal legal entitlement—which the Supreme Court extended in *Plyer v. Doe* (1981) to children of undocumented immigrants (Underwood 2018). Further, the US Federal Government contributes to funding public education in the States through the Department of Education and other Federal agencies (US Department of Education 2021). Consequently, insofar as the US is a union of semi-independent states, public education is clearly part of what John Rawls (1999a: 6) terms the “basic structure” of American society: it is among the “major social institutions” in the US that “distribute fundamental rights and duties and determine the division of advantages from social cooperation.” This can be further appreciated by examining inequalities in public education, as Rawls (1999a: 7) holds that a distinctive feature of society’s basic structure is that “its effects are so profound and present from the start.”

Public school-district financing in the US is vastly unequal (Lundberg 1999; Biddle and Berliner 2002), raising constitutional questions concerning the Fourteenth Amendment guarantee to equal protection under the law (Anderson 2006; Wesche 2015). As of 2017, twenty-three US states disproportionately direct funding to wealthier districts (Brown, Sargrad, and Benner 2017), and a 2011 US Department of Education report found that Title I schools serving children from low-income families “were more likely to have below-average per-pupil personnel expenditures than the non–Title I schools in their district” (Heuer and Stullich 2011: 18. See US Department

of Education 2011). High-poverty schools not only tend to have below-average funding but also less-qualified (Darling-Hammond 2004; Orfield and Lee 2005: 7, 17fn35. See also *Williams v. California* 2004), less-effective (Sass et al. 2012) teachers with higher turnover rates (Freeman, Scafidi, and Sjoquist 2005). Better-funded schools not only pay teachers better and reduce classroom sizes (Baker, Farrie, and Sciarra 2016; Cf. Darling-Hammond 2004: 94), both of which improve student test scores (Krueger 1999); they also offer more after-school and summer programs, which predict higher academic achievement (Shernoff 2010) and reduce delinquency (Gottfredson et al. 2004). Students randomly assigned to higher quality K-3 classrooms have also been found to earn more, be more likely to attend college, save more for retirement, and live in better neighborhoods (Chetty et al. 2011). Finally, increasing funding to poor schools has been found to lower drop-out rates and boost educational achievement (Muijs et al. 2009).

These inequalities have profoundly disparate impact by race and ethnicity (Albertson 2012; Kozol 2005), raising not only Fourteenth Amendment questions but also over whether unequal school funding violates Title VI of the Civil Rights Act of 1964, which prohibits programs that receive federal funding from engaging in actions that have disparate impact by race, ethnicity, and other protected categories (American Bar Association 2016. See also Title VI Statute 1964). A 2002 study found that, “in 31 of 47 states studied districts enrolling the highest proportions of minority students receive substantially fewer ... state and local education dollars per student than districts enrolling the lowest percentages of minority students” (Orlofsky 2002: 5). Similarly, a 2015 study found that, “The highest poverty districts in our country receive about \$1,200 less per student than the lowest poverty districts. The differences are even larger—roughly \$2,000 per student—between districts serving the most students of color and those serving the fewest” (Ushomirsky and Williams 2015: 8). More generally, “Sixty percent of black

and Hispanic students attend majority poor schools, while only 30% of Asian students and only 18% of white students do so” (Logan and Burdick-Will 2016: 324. See Orfield and Lee 2005). Finally, the achievement gap between the richest and poorest ten percent of students has grown between 30–40 percent in the last twenty-five years (Reardon 2011; McCarty 2016: 628), resulting in vastly different expected lifetime wage earnings, employment, and adulthood poverty rates by race and ethnicity (Jackson, Johnson, and Persico 2016; Adsera and Boix 2000).

The nature of justice is of course deeply contested, and this article cannot begin to resolve fundamental disagreements about it. Instead, I propose to examine educational justice and school boosting using John Rawls’s liberal-egalitarian theory, justice as fairness. Although Rawls’s theory is controversial, I utilize it for three reasons. First, the theory is obviously influential. Second, as detailed shortly, it supports influential approaches to educational justice, including defenses of *fair educational opportunity* (Jencks 1988; Brighouse 2000; 2003; 2007; Brighouse and Swift 2003; 2009a; 2009b; 2014) and a right to a *democratically adequate education* sufficient to enable all citizens to participate effectively in democratic life (Anderson 2004; 2007; Satz 2007) without repression or discrimination (Gutmann 1987). Third, as Section 3 details, Rawlsian nonideal theory—that is, a Rawlsian account of how to justly rectify injustices—provides illuminating and plausible analyses of why prevailing forms of school boosting are a defeasibly unjust means for rectifying educational injustice.

Rawls understands principles of justice should as the output of a perfectly fair procedure: the original position (Rawls 1999a: §§1–4 and Chapter III). Rawls first uses the original position to derive principles of domestic justice for a fully just society (Rawls 1999a: 4–5, 215–216), and then applies the original position to international affairs (Rawls 1999b). Because school boosting is primarily a domestic issue, our focus will be on the former. In the domestic case, the original

position is a hypothetical situation where representatives of citizens (Rawls 1999a: 56) deliberate from behind a “veil of ignorance” that prohibits them from arbitrarily favoring any group of citizens (Rawls 1999a: §24). The veil accomplishes this by withholding from the parties any self-individuating information, such as the race, sex, gender, religion (or lack thereof), talents, and so on, of citizens they represent (Rawls 1999a: 16–17, 118). Importantly, Rawls only applies the original position to “ideal theory”—that is, to which principles should govern a fully just society. Rawls does this by having the parties assume *strict compliance*: that they live in “a society in which (1) everyone accepts and knows that others accept the same principles of justice, and (2) the basic social institutions satisfy and are known to satisfy these principles” (Rawls 1999a: 4). Next, because Rawls thought that people have a standing duty “to assist in the establishment of just arrangements when they do not exist” (Rawls 1999a: 293–294), Rawls held that under unjust conditions, principles of ideal theory “set up an aim to guide the course of social reform” (Rawls 1999a: 215). However, because unjust conditions also introduce “natural limitations and historical contingencies” (such as slavery, unequal voting rights, etc.) as well as questions regarding “principles for meeting injustice” (viz., remedial, retributive, and transitional justice) that are not addressed within ideal theory, Rawls recognized that there are further questions of “nonideal theory” concerning whether additional principles of justice ought to be adopted to address these matters (Rawls 1999a: 215–220. See also Arvan 2014; 2019).

In ideal theory, Rawls argues that because the parties behind the veil cannot arbitrarily favor any citizens over others, it is rational for them to agree to the following two principles of justice:

First Principle: Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all.

Second Principle: Social and economic inequalities are to satisfy two conditions:

- i. They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
- ii. They are to be to the greatest benefit of the least-advantaged members of society (*the difference principle*).

(Rawls 2001: 42–43)

Rawls's first principle—the Equal Basic Liberties Principle—entitles all citizens to equal political liberties (the rights to vote and hold public office) and other basic liberties, such as free speech, freedom of association, etc. (Rawls 1999a: 53). Importantly, Rawls adds that this principle also entitles every citizen to the *fair value* of political liberties, such that these liberties must have same value or usefulness for each citizen (Rawls 1996: 358; 1999a: 197. For recent defenses, see Krishnamurthy 2012; 2013; Edmundson 2020). Rawls's second principle then has two parts. The first part, Rawls's Fair Equality of Opportunity (FEO) Principle, holds that, "In all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed" (Rawls 2001: 44). The second part, the Difference Principle, then holds that all other socioeconomic inequalities (principally income and wealth) must maximally advantage society's worst-off class (Rawls 1999a: 65–68). Finally, Rawls defends several priority relations between these principles. First, the Equal Basic Liberties Principle has lexical priority over the Second Principle, such that inequalities in basic liberties cannot be

justified by greater adherence to the FEO Principle or Difference Principle (Rawls 1999a: 53–54, 130–131). Second, the FEO Principle has lexical priority over the Difference Principle (Rawls 1999a: 266), such that a fair distribution of income and wealth cannot be justly achieved by denying people fair equality of opportunity. Let us now examine whether educational inequalities in the US are unjust according to these principles. Because there are interpretive questions about how to apply Rawls’s Difference Principle to public education—as this principle concerns how society’s entire basic structure distributes wealth and income, not just individual institutions (see Freeman 2007: 99–102 and Schouten 2012)—let us focus on Rawls’s Equal Basic Liberties and FEO principles.

Although every child in the US nominally enjoys an equal basic liberty to attend taxpayer-funded public schools, colleges, and universities, many citizens clearly lack an appropriate education necessary to enjoy the *fair value* of basic political liberties. First, Rawls (1999a: 197) defines the fair value of political liberties as requiring society’s basic structure to “underwrite a fair opportunity to take part in and to influence the political process”, such that “those similarly endowed and motivated should have roughly the same chance of attaining positions of political authority irrespective of their economic and social class.” Second, as we have seen, public education funding and quality are vastly unequal in the US. Third, these inequalities are demonstrably related to vastly unequal chances of attaining positions of political authority by race, ethnicity, and socioeconomic class. Of the forty-six US Presidents to date, only ten (or 21.7 percent) did not graduate from college, 41 percent have had graduate degrees, and every President since 1953 has been a college graduate (POTUS 2021). In contrast, only 36 percent of US adults over the age of 25 have a college degree (US Census Bureau 2020), only 13.1 percent have a graduate degree (US Census Bureau 2019), and there has only been one non-

White US President. More generally, public-school funding predicts educational attainment (UNCF 2021), which in turn strongly predicts political participation, including voter turnout (Mayer 2011). Finally, powerful governmental appointments such as presidential cabinets are routinely dominated by wealthy, highly educated political and corporate leaders (Drutman 2015; Gill 2018). Thus, educational inequalities in the US clearly underwrite violations of the fair value of political liberties, violating Rawls' Equal Basic Liberties Principle.

Notice that in making this argument, we need not hold that taxpayer-funded public education is itself a basic political liberty. In principle, there could be other means of ensuring the kind of universal access to education necessary for all citizens to enjoy the fair value of political liberties. One such possibility might be taxpayer-funded educational vouchers enabling citizens to subsidize sending themselves or their children to private educational institutions that meet certain requirements. Whether this or some other alternative would realistically underwrite the fair value of political liberties is an empirical question we cannot answer here. Instead, the relevant points are that Rawls's Equal Basic Liberties Principle requires the basic structure of society to *somehow* ensure that all citizens have access to the kind of education necessary for enjoying the fair value of the right to vote and hold public office, and prevailing educational inequalities in the United States plainly violate this requirement.

Inequalities in public education also clearly violate Rawls's FEO Principle. Rawls, again, states this principle as requiring that, "In all sectors of society there should be roughly equal prospects of culture and achievement for everyone similarly motivated and endowed" (Rawls 1999a: 63). Precisely what this requires in education is a matter of debate. Elizabeth Anderson (2007) contends that it requires ensuring a *democratically adequate* K-12 education for all—a sufficientarian policy which holds that, "[E]very student with the underlying potential should be

prepared by their primary and middle schools to be able to successfully complete a college preparatory high school curriculum and should have a curriculum available to them in high school..." (615). Others defend more radically egalitarian accounts, contending that Rawls's FEO Principle requires society to "eliminate the effects of social background and economic class on educational achievement" (Shields, Newman, and Satz 2017: §3.4). We cannot resolve these debates here. Instead, the relevant point is that public education inequalities in the US violate Rawls's FEO Principle on every plausible reading. As we have seen, poor students in the US, particularly poor students of color, are not ensured anything remotely like a democratically adequate K-12 education as Anderson understands it, nor (obviously) does the US's educational system eliminate the effects of socioeconomic background on educational achievement (see Marrero and Rodríguez 2011; Leonhardt 2005; Scott and Leonhardt 2005). Thus, public education inequalities in the US also violate Rawls's FEO Principle.

Finally, although Rawls's Difference Principle may not apply directly to education, it is worth highlighting deeper connections between public education inequalities and socioeconomic justice: specifically, that on the Difference Principle, educational inequalities in the US exist within a broader context of *socioeconomic injustice*, including racial and ethnic injustice. For, far from maximizing the wealth and income of the least well-off (as the Difference Principle requires), the US's basic structure generates economic inequalities that are primarily to the advantage of the top one percent (Piketty and Saez 2006), and again, to predominantly White citizens. Consequently, if this paper's argument is sound, then from a Rawlsian point-of-view, justice requires public educational reform—including the potential abolition or reform of school boosting—to be pursued in conjunction with broader socioeconomic reform.

In sum, according to justice as fairness, public education inequalities in the US are unjust in two respects corresponding to influential accounts of educational justice. First, Rawls's Equal Basic Liberties Principle entails that every citizen has an equal right to a level of education sufficient to enable them to *participate equitably* in democratic life. Second, Rawls's FEO Principle entails that every citizen is entitled to *fair educational opportunity*. The US's system of public education violates both of these requirements.

2. How Boosting Exacerbates and Perpetuates Educational Injustices

Let us now turn to school boosting. To clarify, our concern here is not whether a fully just society could include boosting, but rather whether the *current practice* is just. Within Rawls's framework, to answer this question, we must answer two questions:

The ideal justice question: is the basic social, political, and economic structure of our society—including its educational system—*fully just*?

The nonideal justice question: if the basic structure of society is unjust, is school boosting an *unjust response* to injustice, such that that boosting should be banned or legally reformed?

Section 1 answered the first question in the negative. So, we must now answer the second. The present section of this paper argues that school boosting exacerbates and plausibly perpetuates both educational injustices identified earlier. Section 3 then argues that it follows in Rawlsian nonideal theory that prevailing forms of boosting are a defeasibly unjust means for addressing educational injustice, such that boosting should be presumptively either banned or substantially reformed.

In recent years, as public funding for education has dropped, school boosting has risen by 230 percent (Nelson and Gazley 2014: 551–552). Wealthier school districts in turn receive a

significantly larger proportion of boosting donations than high-poverty districts (Nelson and Gazley 2014: 556-562), and poverty is associated with a significantly lower probability of receiving booster revenues (Nelson and Gazley 2014: 559). These facts are unsurprising. Students in wealthier districts have three obvious advantages in boosting: wealthier communities to canvas door-to-door for donations, wealthier businesses from which to solicit vendor donations, and more active and effective Parent-Teacher Organizations. These advantages are broadly borne out by empirical research. First, wealthier districts have a significantly higher probability of having booster organizations, and state boosting revenues per pupil are significantly related to the probability of receiving revenues from booster organizations (Nelson and Gazley 2014: 558). Second, there is a “positive and statistically significant relationship between median household income and the level of per-pupil voluntary contributions” from booster groups (Nelson and Gazley 2014: 561).

Prevailing forms of school boosting thus exacerbate both educational injustices identified earlier. First, although Black students enroll in higher education far less than White students (Perna 2007), Black students are *more* likely to continue into college than White students when resources are equal (Merolla 2013). Yet, as we have just seen, school boosting currently worsens public education inequalities—and, as we saw earlier, college attendance strongly predicts the ability to run successfully for political office. Thus, school boosting exacerbates how the US’s basic structure fails to ensure the fair value of political liberties. Second, insofar as boosting gives wealthy and predominantly White students even more educational resources than poorer students (who are disproportionately students of color), boosting also further widens already-unjust inequalities in educational opportunity.

In addition to exacerbating these injustices, there are reasons to believe that boosting plays a role in perpetuating them by hindering just public-educational reform. Politicians in democratic societies have strong incentives to seek election and reelection, and may be voted out of office if their constituents are dissatisfied. Consequently, robust public education reform seems more likely to occur the less happy the average citizen is with the quality of public education that they or their children receive. School boosting, however, effectively insulates middle-class and wealthy families from the worst aspects of the US's public educational system. Whereas students in poor school districts tend to have dilapidated buildings, outdated textbooks and other educational resources, students in wealthier districts tend to enjoy new textbooks, technology, renovated buildings and playgrounds, enriching fieldtrips, etc.—in part because of boosting efforts (Wesche 2015; Samuels 2016).

Would banning boosting improve things from the standpoint of justice? Here, we can only speculate—but, as a first approximation, there are a few relevant scenarios to consider. First, there is an *optimistic scenario*: that by removing private investment from public schools, banning boosting could put pressure on upper- and middle-class parents to support the kind of comprehensive public education reform necessary for achieving ideal educational justice. This might occur as follows. First, banning boosting could initially lead—or preemptively threaten to lead—the quality of education in wealthy and middle-class public schools to fall precipitously. This might lead parents of children at these schools—particularly parents in the ever-shrinking US middle-class (Geewax 2015; Horowitz, Igielnik, and Kochhar 2020), who are increasingly losing financial ground (Pew Research Center 2015), and struggling to afford childcare (Care 2019), student loans (Friedman 2020), and other living costs such as health care and housing (Arends 2019)—to work in greater solidarity with poor families to demand just public education

reform. If, for example, middle-class parents saw or expected conditions in their children’s schools to deteriorate significantly as a result of banning boosting—such their children would have even more dilapidated buildings, more worn-out textbooks, eliminated after-school programs, etc., while children of very wealthy parents still enjoyed high-quality schools—then middle-class parents might plausibly band together with poor families to repeal the kinds of laws responsible for these unjust inequalities: namely, laws tying public school funding to local property taxes (NPR 2016).

This is, again, an optimistic scenario—and even here, it could be argued that banning boosting might constitute a worse injustice than the status quo—by, for example, reducing educational sources for public school students in general, reducing educational inequality to some extent, but only by making all public-school students worse off in absolute terms. We will return to this and other related “leveling-down”¹ concerns in Section 3. For now, it is worth noting, first, that banning boosting could exert motivational pressure on wealthy and/or middle-class families and communities to lobby successfully for the kind of robust public-education reform needed for realizing ideal educational justice. Second, it is equally worth noting that we can equally imagine a more *pessimistic scenario*: namely, that if boosting were banned, then upper-middle-class and wealthy parents might increasingly remove their children from public schools altogether, opting for private or home-schooling. This might not only lead public school funding to evaporate further, leaving poor and lower-middle-class children in even worse public

¹ The “leveling-down objection” (Temkin 2000) holds that egalitarian theories of justice implausibly imply that it is intrinsically good to eliminate inequalities by *lowering* the goods enjoyed by the better off without improving things for anyone in absolute terms. Although we cannot resolve this general objection to egalitarianism here, there are many responses to it, and justice as fairness has been argued to support the kind of sufficientarian approach to education discussed in this paper—one according to which all students are entitled to a particular absolute level of resources (a democratically adequate education) that plausibly precludes problematic forms of leveling-down (see Burroughs 2016).

schools than at present; it might also vastly *increase* already-unjust educational inequalities by giving wealthy and upper-middle class students *even better* educational options than they now have, since increased competition in private education might expand and improve these options for wealthier families. These two scenarios show that, in evaluating the justice of boosting, due consideration must be given to how changes in policy might impact private decisions (Simmons 2010: 19)—something that Section 3 argues supports the conclusion that boosting should be *defeasibly* banned or reformed.

Although I am hopeful that something like the optimistic scenario above might come to pass if boosting were banned—especially given that various Western European nations have shown that equitable national educational policies can have vast benefits for their citizenry (Clawson and Gerstel 2002; Björnberg and Dahlgren 2008)—there is no way to know in advance which of the above scenarios would occur. Significant political reforms standardly pose real risks. For example, prior to decriminalizing drugs in Portugal, pessimists issued many warnings, such as the country becoming a “junkie nirvana” and “drug tourist mecca” (Talk of the Nation 2011). Yet, by and large, these predictions did not materialize—and, while there is debate over just how successful drug decriminalization has been (Hughes and Stevens 2015), it has had many benefits (Domoslawski 2011; Ferreira 2017). Conversely, Prohibition of alcohol in the US in the early Twentieth Century was disastrous and eventually repealed. The lesson of these kinds of cases is that while we should approach legal changes (such as banning or reforming boosting) with due caution and using good research on the likely effects, we should also not assume that pessimistic scenarios will occur (see Robson 2020 for a defense of moderate political experimentation. Cf. Freiman 2013). This is particularly the case when the status quo itself is deeply unjust, as we have seen educational inequalities in the US to be. Injustices are the kind of

thing that *defeasibly* support substantial institutional changes, contingent upon relevant empirical facts about costs and feasibility (again, see Simmons 2010: 19). And the relevant point for now is this: if my argument thus far is sound—if prevailing forms of school boosting exacerbate and plausibly perpetuate a variety of serious educational injustices—then we have ample grounds to carefully examine the nature and effects of alternatives; not just the possibility and potential costs of banning boosting, but also possible ways of reforming the practice and what their effects might be. Although we cannot resolve these complex empirical questions here, we will now see that given what we do know, justice defeasibly supports either banning or substantially reforming boosting.

3. How School Boosting Defeasibly Violates Rawlsian Principles of Nonideal Justice

We have seen that school boosting currently serves to exacerbate and plausibly perpetuate serious educational injustices. However, proponents of boosting might argue that it does not follow that the practice is unjust simpliciter, even in its current form. Specifically, it might be argued that parents and communities have a *right* to engage in the practice precisely because of educational injustice. It might be claimed, for example, that boosting at least enables wealthy and middle-class parents and communities to ensure that they and their children can enjoy educational resources to which they *are* entitled, such as their right to enjoy a democratically adequate education. Here, boosting proponents might add that, rather than banning or reforming boosting, justice instead requires comprehensive public-education reform to address educational injustice's root causes.

To properly evaluate this line of argument, we must examine which *principles of nonideal justice*, or principles for rectifying injustice, Rawls's theory of justice supports. Fortunately, although there is ongoing debate, substantial progress has been made in

understanding this—and, as we will now see, two different approaches converge on the same result: boosting should defeasibly be banned or substantially reformed.

One traditional approach to Rawlsian nonideal theory holds that justice requires applying the spirit of Rawls’s principles of ideal justice and priority relations to unjust conditions, such that we share a duty to support the greater *approximation* of Rawls’s principles and their priority relations here and now (Rawls 1999a: 216, §19; Phillips 1985; Korsgaard 1996: 147-151; Taylor 2009; Simmons 2010: §III). Of those who espouse this approach, some defend “dynamic duties” to gradually change the overall structure of society so that ideally just conditions become more attainable, taking into feasibility and tradeoffs (Gilabert 2017). Others have gone further, suggesting that Rawls’s principles and their priority relations should be used as a decision-procedure, such that justice requires whatever can be expected to bring society into closest conformity with those principles and priority relations (North 2017). Third, Rawls himself reminds us that on this approach, our duty is surely to “remove any injustices, *beginning with the most grievous* as identified by the extent of deviation from perfect justice” (Rawls 1999a: 216, italics added). Rawls’s theory plausibly supports this in that, as Rawls (1999a: 132) puts it, his principles can be thought of as a *maximin* solution to social justice, such that justice requires maximizing the life-prospects of the worst off. And indeed, this notion—that justice requires focusing on prioritizing improvements for the worst off over the comparatively privileged—lies not only at the heart of Rawls’s theory. It is also widely invoked in mainstream social justice theory and activism. As Táíwò (2020) puts it, “The call to ‘listen to the most affected’ or ‘centre the most marginalized’ is ubiquitous in many academic and activist circles.” Finally, and importantly, Rawls adds that on this approach it may even be just to temporarily deprive people of what they are ideally entitled to (such as equal basic liberties) if it is necessary “to transform a

less fortunate society into one in which all the basic liberties *can* be fully enjoyed” provided that we “make sure that the course of change being followed is such that social conditions will eventually be brought about under which restrictions on these freedoms are no longer justified” (Rawls 1999a: 217–218, italics added).

On this approach, to determine whether school boosting is a just response to educational injustice, we must ask whether boosting (A) helps to bring society’s basic structure into greater long-run conformity with Rawls’s principles of ideal justice and priority relations, while (B) maximizing educational resources for the most unjustly disadvantaged. Yet, as we have seen, prevailing forms of boosting (defeasibly) do neither. First, boosting currently worsens and plausibly perpetuates educational injustices. Second, there are clear (albeit defeasible) reasons to think that either banning or substantially reforming boosting—by, e.g., progressively diverting proceeds from the wealthiest to the poorest districts—would better achieve (A) and (B). For, as Section 2 argued, banning boosting could plausibly exert motivational pressure on middle-class (and possibly wealthy) families to support just comprehensive public education reform; and reforming boosting could significantly reduce educational inequality here and now, improving things for the worst-off by diverting boosting proceeds from wealthy to poor districts, while *also* plausibly motivating public educational reform. For, insofar as wealthy and middle-class families might not like the way in which boosting reform progressively diverts proceeds to the poorest districts, reforming boosting could very well lead wealthy and middle-class families to support fixing the root cause of public education inequalities. However, and this is important, these are all *defeasible* conclusions. To echo an earlier point, it follows on this approach to Rawlsian nonideal theory that great care should be taken to ensure that banning or reforming boosting will not tilt the cost-benefit balance for wealthy (and middle-class) families such that too many of

them move their children into private schools, resulting in even more unjust conditions, such as depriving (other) middle-class students of a democratically adequate education or worsening education for the worst off even further.

While this does admittedly temper our conclusion—such that banning or reforming boosting is only a defeasible requirement of justice—this conclusion is nevertheless plausible: justice requires *presumptively* changing an unjust status quo, particularly practices that exacerbate and plausibly perpetuate injustice. Still, such presumptions can surely be defeated if we come by clear evidence that relevant alternatives to the status quo (such as banning or reforming boosting) would make things even worse. Yet, as noted earlier, presumptively just forms of social reform often run similar risks, and warnings about the negative consequences of legal reforms often fail to materialize. Consequently, on the traditional approach to Rawlsian nonideal theory just discussed, upper- and middle-class parents at least defeasibly have *no right* to engage in prevailing forms of boosting, as prevailing forms of boosting defeasibly impose unjust costs on others, exacerbating and perpetuating serious educational injustices, particularly on poor students of color.

Others have criticized this traditional approach to Rawlsian nonideal theory. Citing Rawls's own points that because his principles of ideal justice “are chosen on the [strict-compliance] supposition that they will be generally complied with ... we must *still ask* how well they [the principles of ideal justice] apply to institutions under less than favorable conditions,” and because, “The principles and their lexical order were not acknowledged with these situations in mind ... it is possible that they *no longer hold*” (Rawls 1999a: 215–216, italics added), it has been argued that to determine what justice as fairness requires under unjust conditions, we must derive principles of just social reform from a “nonideal original position” (Arvan 2014; 2019. Cf.

Volacu 2018). In this variant of Rawls’s model, every citizen knows behind a veil of ignorance that Rawls’s principles of ideal theory are violated in their society. Second, because Rawls’s principles have already by hypothesis been agreed to in ideal theory *abstracting away* from costs of non-compliance, the parties to a nonideal original position should have *all-things-equal* preferences to see Rawls’s principles of justice realized, as this models the duty of all to support the realization of a just society (Arvan 2014: 101–104; 2019: 215–216). Yet, because as noted above Rawls’s ideal-theoretic version of the original position abstracts away from all “nonideal costs”—that is, from costs of injustice and transition-costs related to social reform—citizens in a nonideal original position should be *free to weigh* their motive to achieve a just society against such costs (Arvan 2014: 104–107; 2019: 215–218). Based on these assumptions, it has been argued that parties to a Rawlsian nonideal original position should seek *nonideal primary goods*: all-purpose goods for advancing Rawlsian ideals, weighing them against “nonideal costs” (i.e., tradeoffs), and enabling individuals to advance their most favored weighting thereof (Arvan 2014: 108–112; 2019: 220–222). Next, it has been argued that one such good is the opportunity to engage in inclusive social justice activism guided by Rawlsian ideals, as said activism is both a means of advancing Rawlsian ideals while individually and collectively navigating tradeoffs (Arvan 2014: 109–110). Other nonideal primary goods identified include remedial social, economic, and cultural protections: legal rights, opportunities, and institutions (such as the National Labor Relations Act, Civil Rights Act, ACLU, etc.) that individuals can use to advance Rawlsian ideals in unjust conditions and navigate tradeoffs (Arvan 2019: 223–224). Finally, much as in the traditional approach to Rawlsian nonideal theory, it has been argued that the parties to a nonideal original position should distribute these goods in ways that prioritize the

oppressed in proportion to their oppression, with the highest priority for the worst off (Arvan 2014: 115).

Although this approach to Rawlsian nonideal theory is different in important ways from the traditional approach—specifically, in theorizing about how to fairly balance the promotion of just ideals against tradeoffs—it has similar implications for school boosting. First and foremost, school boosting in its current form is plainly *not* a nonideal primary good. Nonideal primary goods are, again, all-purpose means for advancing Rawlsian ideals and weighing them against costs. Yet, as we have seen, prevailing forms of boosting not only set back the cause of Rawlsian ideals by exacerbating educational injustices and standing in the way of public education reform. They also *presuppose* that the benefits of boosting are worth the serious costs involved, including the costs of exacerbating and perpetuating educational injustice.

What would qualify as a nonideal primary good for addressing educational injustice? One obvious initial answer is this: *opportunities* to effect changes in the distribution of public education funding and lobby for cost-sensitive approaches to comprehensive public educational reform. Such opportunities would both enable people to advance Rawlsian ideals of educational justice and weigh those ideals against tradeoffs. Notice, next, that such opportunities could be operationalized in another, more concrete type of nonideal primary good mentioned above: remedial legal rights and institutions. Consider, for example, a federal or state law akin to the Civil Rights Act or National Labor Relations Act: call it the *Educational Equity Act* (EEA). An EEA might give citizens legal rights and resources to sue states or boosting organizations for distributing educational resources in ways that undermine the fair value of political liberties and fair equality of educational opportunity—and perhaps also empower teachers’ unions to negotiate a more equitable distribution of boosting proceeds across districts. Much like the

NLRA and Civil Rights Act, an EEA would not force citizens to utilize these resources. Instead, citizens could choose to use the legal resources the law provides to advocate for greater educational equity given the costs involved. Further, it is worth noting that there are past precedents for education-related laws of broadly this sort: specifically, the Women's Educational Equity Act of 1974, which along with the Education Amendments of 1972 has been used effectively over the intervening decades to achieve greater sex and gender equity in US education (Bredthauer 1997; Hill and Prangle 2014). Finally, although there are of course transition-costs associated with creating new laws like these, on this alternative to Rawlsian nonideal theory costs in creating remedial laws are to be organically negotiated by inclusive grassroots politics centering unjust marginalized voices and groups (Arvan 2019: 221-222)—that is, through social justice activism. If the present paper is correct, then those subject to educational injustice have *defeasible* grounds to favor banning or reforming boosting—since, as we have seen, boosting exacerbates and plausibly perpetuates educational injustices. It thus follows that social justice activists have defeasible grounds to favor the creation of EEA-type laws given the costs of injustice they currently endure—and hence, on this alternative approach to nonideal theory, that *justice* defeasibly requires the creation of some such law.

Notice that, in principle, an EEA might even be consistent with some reformed and highly regulated form of boosting. For example, an EEA might permit boosting, provided states distribute boosting funds to school districts across their state in a manner that compensates for currently-unjust funding inequalities—for example, by diverting (say) 20% of all funds raised to wealthy school districts, 35% to middle-class districts, and 45% to worst off school districts.² Such a system would function much like progressive taxation. Finally, while an EEA might be

² I thank an anonymous reviewer for suggesting this alternative.

difficult to pass, this does not undermine the claim that justice defeasibly requires some such law, any more than difficulties in passing the CRA, NLRA, and Women's Educational Equity Act undermine the idea that justice requires remedial laws like them. Thus, even if we reject the traditional approach to Rawlsian nonideal theory discussed earlier in favor of this alternative, we are driven to the same general conclusion: prevailing forms of school boosting are defeasibly unjust and should either be banned or substantially reformed.

This brings us back to the concern that banning school boosting—either entirely or at least in its present form—might have intolerable costs, reducing educational inequality (by removing unequal forms of private investment in public schools), but only by lowering educational quality in general, including for those who are already the worst off. This kind of “leveling-down” objection is serious and important. Fortunately, there are several ways to address this concern in manner sufficient to defend this paper’s conclusion that boosting should be *defeasibly* banned or reformed. First, in pursuing legislation to ban boosting, parents and legislators might bear the above concerns in mind, conjoining a boosting ban with legislation to *improve* public education funding across the board—which could effectively preempt problematic forms of leveling-down. Second, if due to political realities banning boosting could be expected to lead to leveling-down, then both approaches to Rawlsian nonideal theory discussed above support alternatives that do not involve leveling down—which might be accomplished by instead reforming boosting. As we have seen, in Rawlsian nonideal theory our common duty under unjust conditions is to “remove any injustices, beginning with the most grievous” (Rawls 1999a: 216). Insofar as the most grievous educational injustices in the US today are not mere inequalities but rather poor students receiving deficient *absolute* levels of educational resources far below a democratically adequate education, Rawlsian theory supports

bringing poor students *up* to this threshold without lowering any below it. Third, a remedial EEA law might contain explicit provisions that inequalities in public education must be addressed in ways—such as by progressively diverting boosting funds from wealthy to poor districts—that do just this, improving conditions for the worst off while not lowering any students below such a minimum threshold. Fourth, Rawlsian nonideal theory entails this kind of transfer from the wealthy to the unjustly disadvantaged can be a *just transfer of resources*, as the wealthy are not entitled to unjust educational advantages, whereas the unjustly deprived *are* entitled to better educational resources. Finally, it is important to remember that this paper defends a defeasible conclusion, such that if all approaches to banning or reforming boosting would cause leveling-down, then that would be a defeater. However, as noted earlier, there are good reasons not to assume these kinds of pessimistic predictions prematurely.

But now, far from being distinctly Rawlsian, the above approach to addressing injustice—identifying injustices of relative severity, creating institutions and social practices that center the interests and voices of the unjustly disadvantaged, and aiming to *improve* the prospects of the unjustly disadvantaged through just transfers from the unjustly privileged—enjoys broad theoretical appeal (Arvan 2019) and support in academic and activist circles (see Táíwò 2020).

4. Replies to Potential Objections

One potential objection is that by predicating itself upon Rawls's theory of justice, my argument is based upon controversial premises that non-Rawlsian might reject. Notice, first, that this problem is not unique to my argument: nearly all arguments about justice share it, since there are many competing theories of justice. One possibility, then, is to simply restrict my argument's scope, allowing that I have at most shown that current forms of school boosting are unjust

according to justice as fairness. However, while I do not necessarily oppose this reply, as it would still make my argument of interest, I do not think it is the only plausible one. What I propose is that, setting aside an extreme libertarian position that public education should not be funded by taxation at all, liberal theorists—and US citizens in general—should find this paper’s argument to be attractive. First, as we have seen, various liberal theorists have defended views on educational justice that cohere with this paper’s argument, ranging from a universal right to a *democratically adequate* education to *fair equality of educational opportunity*. Second, the spirit of this paper’s argument coheres with settled US law: specifically, the *Civil Rights Act of 1964*, a federal law that a majority of Americans supported when passed (O’Keefe 2020) and which approximately 8 in 10 Americans support (Roper Center 2021). Title VI of the CRA holds that, “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (Title VI Statute 1964: 4390). As noted earlier, violations of Title VI are standardly understood to include “both intentional discrimination and *disparate impact* discrimination” (American Bar Association 2016, italics added). Because public educational institutions ranging from K-12 school districts (US Department of Education 2021) to public colleges and universities (Datalab 2020) receive Federal financial assistance, it can be argued that educational inequalities violate Title VI (Children’s Rights Accountability Committee 2015). Finally, Title VI also “makes recipients responsible for the actions of *private and nonprofit agencies* with which federally funded child welfare agencies and state court systems contract to provide services to children and families on their behalf” (American Bar Association 2016, italics added). Consequently, there are reasons to believe that anyone who finds the Civil Rights Act attractive should find the first part of my

argument—focusing on the unjust impacts of school boosting on basic political liberties—to be persuasive.

To see how, consider any basic right you like that is either a political right (such as the right to vote) or has impact on the *fair value* of political liberties—for example, the right to police protection from crime and the right to a fair trial. The quality of policing and the court system in a jurisdiction can clearly impact the value of citizens’ basic political liberties to vote or run successfully for office. If citizens in a jurisdiction are disproportionately killed by violence preventable by better policing, then those (dead) citizens obviously cannot enjoy the same value of the political liberties to vote or run for office as better-protected (living) citizens. Similarly, if particular citizens are disproportionately convicted as felons due to unjust inequalities in the judicial system, then once again *those* citizens cannot enjoy the fair value of the liberty to vote (since felons in the US forfeit the right to vote).

Bearing this in mind, suppose you then knew that as a result of private community fundraising, *your* community’s police force can afford to carry out its basic responsibilities, effectively preventing violent crime; *your* courts can afford to hold jury trials in a timely fashion with an adequate number of competent public defense attorneys; and *your* precinct has sufficient staff and voting booths to ensure that everyone in your jurisdiction can vote on election day. Now suppose that when you visit poor communities, none of these things are true. Suppose that despite “police boosting,” members of poor communities continued to suffer from vastly unequal and policing resources unable to adequately prevent violent crime; that despite “court boosting,” courts in poor areas lacked resources for ensuring out fair trials; and that despite “voter boosting,” poor neighborhoods can afford so few voting booths such that not everyone who shows up on election day can actually vote.

Now, as a matter of fact, police boosting actually exists (Pacific Area Boosters n.d.). However, this should not console us. State courts (Pew 2021) and state and local police (Urban Institute n.d.) in the US receive federal funding, in which case disparate impact on opportunities *and* basic political liberties resulting from funding inequalities—including private boosting activities—again violate the spirit of a settled law (the Civil Rights Act) that a plurality of citizens and liberal theorists support. As we have seen, educational funding inequalities and school boosting do broadly the same thing, undermining the ability of poorer citizens (particularly citizens of color) to exercise their *basic political liberties*. Thus, even if one rejects a liberal principle of fair equality of opportunity, my first line of argument—that prevailing forms of school boosting are defeasibly unjust by undermining the fair value of basic political liberties—is one that a broad variety of readers, both liberal theorists and US citizens, should find persuasive.

Some might worry that my argument has implausible implications.³ Consider that an ideally just Rawlsian society would presumably have a public fire brigade giving citizens equal protections against the risks of fire. Now suppose that one lives instead in a “Nozickian Dystopia” where there are no public provisions for protection against fire (see Nozick 1974). Would it really be unjust for Dystopians to pay privately for a community fire department to protect those who pay against death and damage from fire? My argument against school boosting would seem to imply that this would be (defeasibly) unjust, as poorer communities might be unable to afford and enjoy those protections. But, or so the objection goes, this is implausible: Dystopians would intuitively have a right to pay privately to protect themselves from fires. Further, the wealthy and middle-class Dystopians who pay for private fire departments might

³ I thank an anonymous reviewer for raising the following concern.

even do so in a way that does not stand in the way of greater justice—for while they are paying for private fire insurance, they might *also* advocate for public fire departments. Consequently, one might think that Dystopians have a right to pay for private fire protections given the injustices they face, *provided* they work to achieve comprehensive fire-protection reform. Finally, by parity of reasoning, one might contend that prevailing forms of school boosting are not defeasibly unjust, provided that those who benefit from it (wealthy and middle-class families) do something that many of them are not currently doing: strongly advocating for just public education reform.

My response to this objection is that the Dystopia case is poorly analogous to school boosting today. Notice that the initial baseline in Dystopia is one in which *no one* enjoys the publicly funded fire protections to which they are entitled a fully just society, such that *everyone* (wealthy, middle-class, and poor) is subject to severe absolute deprivations, their lives and property being at constant risk to catastrophic loss due to fire. This is intuitively why Dystopians have a right to purchase private fire insurance. Provided that Dystopians who pay for private insurance also advocate for equal public fire protections for all, both features of their actions—providing vital fire protections for themselves in the short-term, while advocating for equal public fire protection for all in the long-term—are broadly in line with the demands of Rawlsian nonideal theory. For, as we have seen, Rawlsian nonideal theory holds that our common duty in unjust conditions is to “remove any injustices, beginning with the most grievous” (Rawls 1999a: 216). In Dystopia, the most grievous injustice is that *no one* enjoys adequate levels of fire protection—and, at least in the short run, paying for private protection enables some citizens to at least obtain it. Further, and importantly, there are obvious motivational reasons for wealthier Dystopians to advocate for just public fire protection reform while paying for private fire

insurance. Paying for private fire insurance is suboptimal and profoundly risky, even for the wealthy, as an accidentally missed payment, unexpected bankruptcy of a private brigade, or other market failure (such as fraud) could lead one to lack any protections, the consequences of which could be catastrophic. For these reasons, it is unsurprising that private fire brigades rapidly died out across the globe: the wealthy, middle-class, and poor alike generally share a common interest in the existence of adequate public fire protection.

None of the above hold true of school boosting today. Here, public provisions (taxpayer-funded public education) already exist. Second, those provisions are unjustly distributed by the state, providing wealthy citizens with unjust advantages above a relevant absolute threshold required by justice (viz. a democratically adequate education), while unjustly depriving poorer citizens of that threshold, in ways that underwrite gross inequalities in the value of basic liberties, including the right to vote. Third, boosting exacerbates these inequalities, providing wealthier students even greater unjust advantages. Fourth, even if boosting enables some (e.g. middle-class) students to obtain a democratically adequate education, it does so by perpetuating *more severe* educational injustices—the inability of society’s poorest students to come anywhere close to a democratically adequate education in perpetuity. Fifth, boosting does this precisely by undermining the incentives of wealthier citizens to correct the root cause of these injustices: the way in which public education funding is based on local property taxes. Finally, if wealthy communities who engage in boosting advocated effectively for just comprehensive education reform—such that educational injustices were being incrementally addressed—then this might be a defeater of boosting being unjust. But again, this is not occurring. Rawlsian nonideal theory thus plausibly (and coherently) supports private fire insurance as a stopgap in Dystopia, while at the same time implying that school boosting today is defeasibly unjust.

Two final objections are related to each other. First, suppose school boosting were banned or reformed. Would this really make education in the US more equal? Wouldn't rich and middle-class families still enjoy all kinds of educational advantages, such as access to expensive private schools, after-school programs, tutors, etc.? Second, if my argument is sound, does it not follow that these other educational inequalities are unjust too? Complete answers to these questions are beyond this article's scope. However, several things are worth noting.

First, I grant that at least some of the other kinds of educational inequalities mentioned above do raise serious questions of justice. If (as Rawls argues) justice is fairness, and if the existence of expensive private schools, fancy after-school programs in wealthy areas, and so on, undermine fair equality of opportunity and/or fair value of basic political liberties, then it may well be that these aspects of American society are unjust and should be reformed as well. Yet, four things are worth noting here. First, justice does not mandate solving every injustice at once—but instead, as we have seen, the worst injustices first. If, as I have argued, outlawing or substantially reforming school boosting would plausibly improve things for the most unjustly disadvantaged by educational injustice, while also putting pressure on citizens to lobby for just public education reform, then there are reasons to believe that eliminating or reforming boosting would be a significant step toward rectifying the worst and most systemic educational injustices that presently exist: namely, unjust inequalities in public school funding and resources.

Second, reforming public education (and boosting's effects upon it) seems particularly important from the standpoint of justice in that public education is clearly and unambiguously part of the basic structure of society: public education is a major institution in American society to which all citizens are legally entitled *as a taxpayer-funded, public good*. If banning or reforming boosting were to lead to just public education reform, then “private” educational

inequalities (such as access to expensive public schools, paid tutoring, etc.) might be vastly mitigated—for again, on Rawlsian theory, a just system of *public* education would ensure the fair value of basic political rights and approximate fair equality of educational opportunity. In a just Rawlsian society, there still might be expensive private schools, such as religious schools for parents who want to educate their children in their religious faith. These schools, however, would plausibly no longer provide *unjust advantages*, since the public educational system would ensure that all citizens have access to a democratically adequate education for citizens to enjoy the fair value of political liberties and fair equality of educational opportunity. Although it is unlikely that Americans will enjoy a fully just society (and public educational system) anytime soon, the relevant point is that banning or reforming school boosting in a way that motivates comprehensive public education reform can be expected to progressively *mitigate* “private” educational advantages such as paid tutors, etc.

Third, although laws regulating private markets (including private schools and tutoring) are a part of society’s basic institutional structure, although informal institutions such as the family have been argued to be a part of society’s basic structure (Okin 1994), and although some have criticized Rawls’s claim that the focus of justice should be on public institutions rather than the actions of private individuals (Cohen 1997; Cf. Neufeld 2009), the precise distinction between the public and private remains controversial (Howard 2014). Further, as we saw earlier, Rawls’s Difference Principle, which concerns the regulation of private markets, is normally thought to apply to society’s entire basic structure, rather than individual institutions considered in isolation (such as private schools or tutoring). Consequently, although such “private” educational advantages *may* be matters of justice, insofar as public education is a set of state institutions paid for by taxpayer dollars, public education is more clearly and unambiguously a

part of society's basic structure, and hence, more clearly and unambiguously a matter of justice. Finally, as a practical matter, public institutions are easier to regulate and monitor than private transactions. For example, it would be infeasible to investigate and prosecute large numbers of parents paying private tutors "under the table"—at least not without severe costs to the state and citizens. Second, while for these reasons it may be infeasible to eliminate every kind of "private" educational inequality (such as private tutoring), there *are* feasible ways to at least mitigate (if not eliminate) their implications. For example, the Scholastic Aptitude Test (or SAT) will now provide college admissions committees not merely with raw scores but also "detailed high school and neighborhood information to admissions officers as separate data points so they can fairly evaluate each student" (Associated Press 2019). None of this is to deny that "private" educational inequalities may constitute injustices. It is merely to say that, because of issues of feasibility and the obvious importance of ensuring that *taxpayer-funded public institutions* are fair, there are plausible reasons to regard reforming public education and school boosting to be a higher priority than reforming other "private" educational inequalities. But we must leave further discussion of these complexities for another day.

Conclusion

School boosting appears to be a well-intentioned response to inadequate state funding for public education. However, current forms of boosting exacerbate and perpetuate serious educational injustices, thus constituting a (defeasibly) *unjust* response to educational injustice according to Rawlsian nonideal theory. While not everyone accepts Rawls's conception of justice, we have seen that his theory supports prominent liberal conceptions of educational justice *and* that these conceptions of educational justice broadly reflect the spirit of settled US laws supported by a plurality of liberal theorists and American citizens, including the Title VI of the Civil Rights Act.

Prevailing forms of school boosting are thus defeasibly unjust and (defeasibly) ought to be banned or substantially reformed.⁴

References

- Adsera, Alicia, and Charles Boix. 2000. "Must We Choose? European Unemployment, American Inequality, and the Impact of Education and Labor Market Institutions," *European Journal of Political Economy* 16(4): 611–638.
- Albertson, Sarah. 2012. "The Achievement Gap and Disparate Impact Discrimination in Washington Schools," *Seattle University Law Review* 36(4): 1919–1941.
- Alvin. n.d. "Parent Teacher Organization (ECM PTO)," *Alvin Independent School District: E.C. Mason Elementary*, <https://www.alvinisd.net/Page/5418>.
- American Bar Association. 2016. "Applying Title VI of the Civil Rights Act of 1964," *American Bar Association*, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/november-2016/applying-title-vi-of-the-civil-rights-act-of-1964/.
- Anderson, Elizabeth. 2004. "Rethinking Equality of Opportunity: Comment on Adam Swift's How Not to be a Hypocrite," *Theory and Research in Education* 2(2): 99–110.
- Anderson, Elizabeth. 2007. "Fair Opportunity in Education: A Democratic Equality Perspective," *Ethics* 117(4): 595–622.
- Anderson, James D. 2006. "A Tale of Two Browns: Constitutional Equality and Unequal Education," *Yearbook of the National Society for the Study of Education* 105(2): 14–35.

⁴ I am deeply indebted to three anonymous reviewers, the editors at *Social Theory and Practice*, and Laura Wildemann Kane for helpful feedback on several earlier versions of this manuscript.

- Arends, Brett. 2019. "Why the Middle Class is Shrinking," *Market Watch*,
<https://www.marketwatch.com/story/why-the-middle-class-is-shrinking-2019-04-12#:~:text=The%20middle%20classes%20are%20getting,new%20highs%2C%20the%20OECD%20calculates.>
- Arvan, Marcus. 2014. "First Steps Toward a Nonideal Theory of Justice," *Ethics and Global Politics* 7(3): 95–117.
- Arvan Marcus. 2019. "Nonideal Justice as Nonideal Fairness," *Journal of the American Philosophical Association* 5(2): 208–228.
- Associated Press. 2019. "College Board Says It Is Replacing SAT 'Adversity Score'," *US News & World Report*, <https://www.usnews.com/news/us/articles/2019-08-27/college-board-replacing-sat-adversity-score>.
- Baker, Bruce D., Danielle Farrie, and David G. Sciarra. 2016. "Mind the Gap: 20 Years of Progress and Retrenchment in School Funding and Achievement Gaps," *ETS Research Report Series*: 1–37.
- Bentele, Keith G., and Erin E. O'Brien. 2013. "Jim Crow 2.0? Why States Consider and Adopt Restrictive Voter Access Policies," *Perspectives on Politics* 11(4): 1088–1116.
- Biddle, Bruce J., and David C. Berliner. 2002. "Unequal School," *Educational Leadership* 59(8): 48-59.
- Björnberg, Ulla, and Lillemor Dahlgren. 2008. "Family Policy. The Case of Sweden," in *Family Policies in the Context of Family Change: The Nordic Countries in Comparative Perspective*, (ed) Ilona Ostner and Christoph Schmitt. Wiesbaden: VS Verlag für Sozialwissenschaften.

- Bredthauer, Trudy Saunders. 1997. "Twenty-Five Years Under Title IX: Have We Made Progress?," *Creighton Law Review* 31: 1107–1129.
- Brighthouse, Harry. 2000. *School Choice and Social Justice*. Oxford: Oxford University Press.
- Brighthouse, Harry. 2003. "Educational Equality and Justice," in *A Companion to the Philosophy of Education*, ed. Randall Curren. Oxford: Blackwell Publishing.
- Brighthouse, Harry. 2007. "Educational Justice and Socio-Economic Segregation in Schools," *Journal of Philosophy of Education* 41(4): 575–590.
- Brighthouse, Harry, and Adam Swift. 2003. "Defending Liberalism in Education Theory," *Journal of Education Policy* 18(4): 355–373.
- Brighthouse, Harry, and Adam Swift. 2009a. "Educational Equality Versus Educational Adequacy: A critique of Anderson and Satz," *Journal of Applied Philosophy* 26(2): 117–128.
- Brighthouse, Harry, and Adam Swift. 2009b. "Legitimate Parental Partiality," *Philosophy and Public Affairs* 37(1): 43–80.
- Brighthouse, Harry, and Adam Swift. 2014. "The Place of Educational Equality in Educational Justice," in *Education, Justice and the Human Good. Fairness and Equality in the Educational System*, ed. Kristin Meyer. London, UK: Routledge.
- Brown, Catherine, Scott Sargrad, and Meg Benner. 2017. "Hidden Money: The Outsized Role of Parent Contributions in School Finance," *Center for American Progress*, <https://www.americanprogress.org/issues/education-k-12/reports/2017/04/08/428484/hidden-money/>.
- Burroughs, Nathan A. 2016. "Rawls, Republicanism, and the Adequacy-Equity Debate," *Theory and Research in Education*, 14(2): 226–240.

- Care. 2019. "This is How Much Child Care Costs in 2019," <https://www.care.com/c/stories/2423/how-much-does-child-care-cost/>.
- Chetty, Raj et al. 2011. "How Does Your Kindergarten Classroom Affect Your Earnings? Evidence from Project STAR," *The Quarterly Journal of Economics* 126(4): 1593–1660.
- Children's Rights Accountability Committee. 2015. "Disparate Impact Under Title VI and the School-to-Prison Pipeline," *Accountability Project of the Children's Rights Litigation Committee, ABA Section of Litigation*, <https://www.njjn.org/uploads/digital-library/disparate-impact-memo-2015.authcheckdam.pdf>.
- Clawson, Dan, and Naomi Gerstel. 2002. "Caring for Our Young: Child Care in Europe and the United States," *Contexts* 1(4): 28–35.
- Cohen, G. A. 1997. "Where the Action Is: On the Site of Distributive Justice," *Philosophy and Public Affairs* 26(1): 3–30.
- Cullinane, Mollie. 2017. "What is a Booster Club? How Can Our Organization Start One?," *Cullinane Law Group*, <https://cullinanelaw.com/how-to-start-a-booster-club/>.
- Darling-Hammond, Linda. 2004. "Inequality and the Right to Learn: Access to Qualified Teachers in California's Public Schools," *Teachers College Record* 106(10): 1936–1966.
- Datalab. 2020. "Federal Investment in Higher Education," *DATALAB*, <https://datalab.usaspending.gov/colleges-and-universities/>.
- Domoslawski, Artur. 2011. "Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use," *Open Society Institute*, trans. Hanna Siemaszko, <https://www.tni.org/files/publication-downloads/drug-policy-in-portugal-english.pdf>.

- Drutman, Lee. 2015. "How Corporate Lobbyists Conquered American Democracy," *The Atlantic*, <https://www.theatlantic.com/business/archive/2015/04/how-corporate-lobbyists-conquered-american-democracy/390822/>.
- Edmundson, William A. 2020. "What Is the Argument for the Fair Value of Political Liberty?," *Social Theory and Practice* 46(3): 497–514.
- Ferreira, Susana. 2017. "Portugal's Radical Drugs Policy is Working. Why Hasn't the World Copied It?," *The Guardian*, <https://www.theguardian.com/news/2017/dec/05/portugals-radical-drugs-policy-is-working-why-hasnt-the-world-copied-it>.
- Freeman, Catherine E., Benjamin Scafidi, and David J. Sjoquist. 2005. "Racial Segregation in Georgia Public Schools, 1994-2001," in *School Resegregation: Must the South Turn Back?*, ed. John Charles Boger and Gary Orfield. Chapel Hill: The University of North Carolina Press.
- Freeman, Samuel. 2007. *Rawls*. New York: Routledge.
- Freiman, Christopher. 2013. "Cosmopolitanism Within Borders: On Behalf of Charter Cities," *Journal of Applied Philosophy* 30(1): 40–52.
- Friedman, Zack. 2020. "Student Loan Debt Statistics in 2020: A Record \$1.6 Trillion," *Forbes*, <https://www.forbes.com/sites/zackfriedman/2020/02/03/student-loan-debt-statistics/#22bad1f4281f>.
- Geewax, Marilyn. 2015. "The Tipping Point: Most Americans No Longer Are Middle Class," *NPR*, <https://www.npr.org/sections/thetwo-way/2015/12/09/459087477/the-tipping-point-most-americans-no-longer-are-middle-class>.

- Gilbert, Pablo. 2017. "Justice and Feasibility: A Dynamic Approach," In *Political Utopias: Contemporary Debates*, ed. Michael Weber and Kevin Vallier. New York: Oxford University Press.
- Gill, Timothy M. 2018. "Why the Power Elite Continues to Dominate American Politics," *The Washington Post*, <https://www.washingtonpost.com/outlook/2018/12/24/why-power-elite-continues-dominate-american-politics/>.
- Gottfredson, Denise C. et al. 2004. "Do After School Programs Reduce Delinquency?," *Prevention Science* 5(4): 253–66.
- Gutmann, Amy. 1987. *Democratic Education*. Princeton, NJ: Princeton University Press.
- Hanks, Angela, Danyelle Solomon, and Christian E. Weller. 2018. "Systematic Inequality: How America's Structural Racism Helped Create the Black-White Wealth Gap," *Center for American Progress*, <https://www.americanprogress.org/article/systematic-inequality/>.
- Heuer, Ruth, and Stephanie Stullich. 2011. "Comparability of State and Local Expenditures Among Schools Within Districts: A Report from the Study of School-Level Expenditures," *US Department of Education*, <https://www2.ed.gov/rschstat/eval/title-i/school-level-expenditures/school-level-expenditures.pdf>.
- Hill, Catherine, and Erin Prangle. 2014. "Policy, Education and Social Change: Fifty Years of Progress," Washington, D.C.: *U.S. Department of Labor*.
- Horowitz, Julia M., Ruth Igielnik, and Rakesh Kochhar. 2020. "1. Trends in income and wealth inequality," *Pew Research Center*, <https://www.pewresearch.org/social-trends/2020/01/09/trends-in-income-and-wealth-inequality/>.
- Howard, Dana. 2014. "Public–Private Distinction," in *The Encyclopedia of Political Thought*, ed. Michael T. Gibbons. *Wiley Online Library*.

- Hughes, Caitlin E., and Alex Stevens. 2015. "A Resounding Success or a Disastrous Failure: Re-examining the Interpretation of Evidence on the Portuguese Decriminalization of Illicit Drugs," in *New Approaches to Drug Policies*, ed. Martin E. Brienen and Jonathan D. Rosen. London: Palgrave Macmillan.
- Jackson, C. Kirabo, Rucker C. Johnson, and Claudia Persico. 2016. "The Effects of School Spending on Educational and Economic Outcomes: Evidence from School Finance Reforms," *The Quarterly Journal of Economics* 131(1): 157–218.
- Jencks, Christopher. 1988. "Whom Must We Treat Equally for Educational Opportunity to be Equal?," *Ethics* 98(3): 518–533.
- Korsgaard, Christine M. 1996. *Creating the Kingdom of Ends*. Cambridge: Cambridge University Press.
- Kozol, Jonathan. 2005. *The Shame of the Nation: The Restoration of Apartheid Schooling in America*. New York: Three Rivers Press.
- Krishnamurthy, Meena. 2012. "Reconceiving Rawls's Arguments for Equal Political Liberty and Its Fair Value," *Social Theory and Practice* 38(2): 258–278.
- Krishnamurthy, Meena. 2013. "Completing Rawls's Arguments for Equal Political Liberty and Its Fair Value: The Argument from Self-Respect," *Canadian Journal of Philosophy* 43(2): 179–205.
- Krueger, Alan B. 1999. "Experimental Estimates of Education Production Functions," *Quarterly Journal of Economics* 114(2): 497–532.
- Leonhardt, David. 2005. "Class Matters: The College Dropout Boom," *The New York Times*.
https://www.nytimes.com/2005/05/24/national/class/EDUCATION-FINAL.html?_r=1.

- Logan, John R., and Julia Burdick-Will. 2016. "School Segregation, Charter Schools, and Access to Quality Education," *Journal of Urban Affairs* 38(3): 323–343.
- Los Ranchos. 2019-20. "Parent Teacher Organization," *Los Ranchos Elementary School*, <https://lres-aps-nm.schoolloop.com/pto>.
- Lundberg, Paula J. 1999. "State Courts and School Funding: A Fifty-State Analysis," *Albany Law Review* 63(4): 1101–1146.
- Marrero, Gustavo A., and Juan G. Rodríguez. 2011. "Inequality of Opportunity in the United States: Trends and Decomposition," in *Inequality of Opportunity: Theory and Measurement*, ed. Juan G. Rodríguez. Bingley, UK: Emerald Group Publishing Limited.
- Mayer, Alexander K. 2011. "Does Education Increase Political Participation?," *The Journal of Politics* 73(3): 633–645.
- McCarty, Alyn T. 2016. "Child Poverty in the United States: A Tale of Devastation and the Promise of Hope," *Sociology Compass* 10(7): 623–639.
- Merolla, David M. 2013. "The Net Black Advantage in Educational Transitions: An Educational Careers Approach," *American Educational Research Journal* 50(5): 895–924.
- Muijs, Daniel et al. 2009. "Improving Schools in Socioeconomically Disadvantaged Areas: A Review of Research Evidence," *School Effectiveness and School Improvement* 15(2): 149–175.
- NCAA n.d. Role of Boosters, <https://www.ncaa.org/sports/2013/11/27/role-of-boosters.aspx>.
- Nelson, Ashlyn Aiko, and Beth Gazley. 2014. "The Rise of School-Supporting Nonprofits," *Education Finance and Policy* 9(4): 541–566.
- Neufeld, Blain. 2009. "Coercion, the Basic Structure, and the Family," *Journal of Social Philosophy* 40(1): 37–54.

- New Franklin. n.d. "New Franklin School PTO,"
<https://web.archive.org/web/20080612140252/http://www.nfspto.org/mission.html>.
- North, Richard. 2017. "Principles as Guides: The Action-Guiding Role of Justice in Politics,"
The Journal of Politics 79(1): 75–88.
- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.
- NPR. 2016. "Why America's Schools Have A Money Problem," *NPR*,
<https://www.npr.org/2016/04/18/474256366/why-americas-schools-have-a-money-problem>.
- O'Keefe, Shannon Mullen. 2020. "Gallup Vault: Americans Narrowly OK'd 1964 Civil Rights Law," *Gallup*, <https://news.gallup.com/vault/316130/gallup-vault-americans-narrowly-1964-civil-rights-law.aspx>.
- Okin, Susan Moller. 1994. "Political Liberalism, Justice, and Gender," *Ethics* 105(1): 23–43.
- Orfield, Gary, and Chungmei Lee. 2005. "Why Segregation Matters: Poverty and Educational Inequality," *The Civil Rights Project, Harvard University*: 1–47.
- Orlofsky, Greg F. 2002. "The Funding Gap: Low-Income and Minority Students Receive Fewer Dollars," *Education Trust*, <https://files.eric.ed.gov/fulltext/ED468550.pdf>.
- Pacific Area Boosters. n.d. "The Pacific Area Boosters Association," <https://pacificboosters.org/>.
- Parent Booster USA. 2017. "Fundraising and Finance: Understanding the School-Volunteer Relationship," <https://parentbooster.org/media/fundraising-finance-understanding-school-volunteer-relationship>.
- Perna, Laura W. 2007. "The Sources of Racial-Ethnic Group Differences in College Enrollment: A Critical Examination," *New Directions for Institutional Research* 2007(133): 51–66.

- Pew. 2021. “Federal Pass-Through Funding for Courts Supports Innovations and Equity,” *Pew Charitable Trusts*, <https://www.pewtrusts.org/en/research-and-analysis/articles/2021/03/05/federal-pass-through-funding-for-courts-supports-innovations-and-equity>.
- Pew Research Center. 2015. “The American Middle-class Is Losing Ground,” *Pew Research Center*, <https://www.pewsocialtrends.org/2015/12/09/the-american-middle-class-is-losing-ground/>.
- Phillips, Michael. 1985. “Reflections on the Transition from Ideal to Non-Ideal Theory,” *Noûs* 19(4): 551–70.
- Piketty, Thomas, and Emmanuel Saez. 2006. “The Evolution of Top Incomes: a Historical and International Perspective,” *American Economic Review* 96(2): 200–205.
- POTUS. 2021. “Education Level,” *POTUS: Presidents of the United States*, <https://www.potus.com/presidential-facts/education-level/>.
- PTO. 2015. “Your school’s PTO,” <http://www.pto.org/leaders.html>.
- PTO. 2022. “About us,” *PTO*, <https://www.pto.org/about.html>.
- Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press.
- Rawls, John. 1999a. *A Theory of Justice, Revised Edition*. Cambridge, MA: The Belknap Press of Harvard University Press.
- Rawls, John. 1999b. *The Law of Peoples*, with “The Idea of Public Reason Revisited.” Cambridge, MA: Harvard University Press.
- Rawls, John. 2001. *Justice as Fairness: A Restatement*, ed. Erin Kelly. Cambridge: Harvard University Press.

- Reardon, Sean F. 2011. "The Widening Academic Achievement Gap between the Rich and the Poor: New Evidence and Possible Explanations," in *Whither Opportunity? Rising Inequality, Schools, and Children's Life Chances*, ed. Greg. J. Duncan and Richard J. Murnane. New York, NY: Russell Sage Foundation.
- Renaissance. n.d. "Welcome Parent Teacher Organizations,"
<https://www.renaissance.com/services/parent-resources/parent-teacher-organizations/>.
- Robson, Gregory. 2020. "The Rationality of Political Experimentation," *Politics, Philosophy and Economics* 20(1): 67–98.
- Roper Center. 2021. "Public Opinion on Civil Rights: Reflections on the Civil Rights Act of 1964," *Roper Center, Cornell University*, <https://ropercenter.cornell.edu/public-opinion-civil-rights-reflections-civil-rights-act-1964>.
- Samuels, Alana. 2016. "Good School, Rich School; Bad School, Poor School," *The Atlantic*,
<https://www.theatlantic.com/business/archive/2016/08/property-taxes-and-unequal-schools/497333/>.
- Sass, Tim R. et al. 2012. "Value Added of Teachers in High-Poverty Schools and Lower Poverty Schools," *Journal of Urban Economics*, 72(2-3): 104–122.
- Satz, Debra. 2007. "Equality, Adequacy, and Education for Citizenship," *Ethics* 117(4): 623–648.
- Schouten, Gina. 2012. "Fair Educational Opportunity and the Distribution of Natural Ability: Toward a Prioritarian Principle of Educational Justice," *Journal of Philosophy of Education* 46(3): 472–491.

- Scott, Janny, and David Leonhardt. 2005. "Class Matters: Shadowy Lines That Still Divide," *The New York Times*, <https://www.nytimes.com/2005/05/15/us/class/shadowy-lines-that-still-divide.html>.
- Shernoff, David J. 2010. "Engagement in After-School Programs as a Predictor of Social Competence and Academic Performance," *American Journal of Community Psychology* 45(3-4): 325–337.
- Shields, Liam, Anne Newman, and Debra Satz. 2017. "Equality of Educational Opportunity," in *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/sum2017/entries/equal-ed-opportunity/>.
- Simmons, A. John. 2010. "Ideal and Nonideal Theory," *Philosophy and Public Affairs* 38(1): 5–36.
- Táíwò, Olúfẹ̀mí. 2020. "Being-in-the-Room Privilege: Elite Capture and Epistemic Deference," *The Philosopher*, 108(4): <https://www.thephilosopher1923.org/essay-taiwo>.
- Talk of the Nation. 2011. "Mixed Results for Portugal's Great Drug Experiment," *NPR*, <https://www.npr.org/2011/01/20/133086356/Mixed-Results-For-Portugals-Great-Drug-Experiment>.
- Taylor, Robert S. 2009. "Rawlsian Affirmative Action," *Ethics* 119(3): 476–506.
- Temkin, Larry. 2000. "Equality, Priority, and the Levelling-Down Objection," in *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams. New York: Palgrave Macmillan.
- Title VI Statute. 1964. "Title VI of the Civil Rights Act of 1964 42 U.S.C §§ 2000d - 2000d-7," <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap21-subchapV.pdf>.

- UNCF. 2021. “K-12 Disparity Facts and Statistics,” *UNCF*, <https://uncf.org/pages/k-12-disparity-facts-and-stats>.
- Underwood, Julie. 2018. “Education as an American Right?,” *Phi Delta Kappan: The Professional Journal for Educators*, <https://kappanonline.org/underwood-education-american-right/>.
- Urban. n.d. “Criminal Justice Expenditures: Police, Corrections, and Courts,” *Urban Institute*, <https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/criminal-justice-police-corrections-courts-expenditures>.
- US Census Bureau. 2020. “U.S. Census Bureau Releases New Educational Attainment Data,” <https://www.census.gov/newsroom/press-releases/2020/educational-attainment.html>.
- US Census Bureau. 2019. “About 13.1 Percent Have a Master’s, Professional Degree or Doctorate,” <https://www.census.gov/library/stories/2019/02/number-of-people-with-masters-and-phd-degrees-double-since-2000.html#:~:text=About%2013.1%20Percent%20Have%20a%20Master's%2C%20Professional%20Degree%20or%20Doctorate&text=The%20educational%20level%20of%20American,master's%2C%20professional%20and%20doctoral%20degrees>.
- US Department of Education. 2021. “The Federal Role in Education,” *U.S. Department of Education*, <https://www2.ed.gov/about/overview/fed/role.html>.
- US Department of Education. 2011. “The Condition of Education 201,” *National Center for Education Statistics* (NCES 2011-033), <https://nces.ed.gov/pubs2011/2011033.pdf>.

Ushomirsky, Natasha, and David Williams. 2015. "Funding Gaps 2015: Too Many States Still Spend Less on Educating Students Who Need the Most," *Education Trust*:

<https://files.eric.ed.gov/fulltext/ED566665.pdf>.

Volacu, Alexandru. 2018. "Bridging Ideal and Non-Ideal Theory," *Political Studies* 66(4): 887–902.

Wesche, Breanne N. 2015. "Putting the American Education System to the Test: Recognizing

Education as a Fundamental Right and Abolishing Unequal School Funding," *Thurgood*

Marshall Law Review 41(5): [https://advance-lexis-](https://advance.lexis-com.esearch.ut.edu/api/document?collection=analytical-materials&id=urn:contentItem:5KXH-WFN0-00CW-60KS-00000-00&context=1516831)

[com.esearch.ut.edu/api/document?collection=analytical-](https://advance-lexis-com.esearch.ut.edu/api/document?collection=analytical-materials&id=urn:contentItem:5KXH-WFN0-00CW-60KS-00000-00&context=1516831)

[materials&id=urn:contentItem:5KXH-WFN0-00CW-60KS-00000-00&context=1516831](https://advance-lexis-com.esearch.ut.edu/api/document?collection=analytical-materials&id=urn:contentItem:5KXH-WFN0-00CW-60KS-00000-00&context=1516831).