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No Justice, No Teachers: Theorizing Less-Unjust Teacher Firings in L.A. Unified **Meira Levinson and Victoria Theisen-Homer**

Abstract: This paper combines original interviews, secondary policy analysis, and non-ideal theory to determine the “least-unjust” approach to budget-driven “Reduction in Force” (RIF) teacher firings in Los Angeles. Building from the *a priori* claim that schools should serve children’s interests, the paper addresses the following questions: To whom is justice owed in this case? What does justice demand for each set of claimants? How should conflicts be resolved? The authors conclude that the least unjust way to RIF teachers is based on a holistic assessment combining student evaluations, administrative evaluations, value added measures, and seniority, modified by school stability considerations. Unexpectedly, justice toward students and justice toward teachers turn out to be substantially coextensive when determining budget-driven teacher layoffs. Teachers and students are mutual allies, not antagonistic claimants. Furthermore, to the extent that teachers’ and students’ justice claims are not aligned, this lack of alignment likely reveals not an intrinsic conflict, but a policy failure that is itself borne of prior injustice.

Keywords: non-ideal theory, teacher tenure, *Vergara*, value-added measurement, teacher evaluation, justice, teacher layoffs

As the final bell chimed on the last day of school in June 2012, students flooded out the front gates of Skyline High School.¹ But while the students celebrated the beginning of summer, the mood among the staff was bittersweet. For many of the teachers, this was their last day working at Skyline, a place they had cultivated and loved since it opened in 2007. Thanks to district-wide Reduction in Force (RIF) layoffs, prompted by recession-driven budget cuts rather than student or school needs, this large comprehensive high school in Los Angeles Unified School District (LAUSD) would become a very different place next year. Twenty teachers and six counselors—24% of the total faculty—were being laid off. Because this was the fourth year of RIF layoffs in the school’s five years of existence, these cuts reached deep. Skyline’s “RIF’d” teachers had an average of four years of teaching experience in the district. Some had taught in LAUSD for as many as seven years. Half had helped to found the school; others served as Department Chairs and members of School Site Council.

These particular teachers were being RIF’d because they were now the least senior teachers in the district. This is a common phenomenon; in over two-thirds of the 75 largest U.S. school districts, for example, contracts with teachers unions make seniority the sole criterion for job retention in times of layoffs (Goldhaber, 2011). In LAUSD, however, these policies weren’t due solely to union contracts. Rather, California’s State Education Code (§44995) mandates that RIFs be conducted by seniority.² 94% of the state’s public school districts, including Los Angeles Unified, strictly abide by this law (Estrada, 2012). Districts may only “skip” junior teachers if they have specific qualifications that senior teachers lack or if the dismissal of junior teachers would in some way violate federal law (Dowell et al., 2011).

The United Teachers of Los Angeles union contract explicitly supports seniority protections in the case of budgetary layoffs for a number of compelling reasons. Such rules for layoffs were “established during a time when teachers could be fired for almost any

reason (like getting pregnant) or for no reason whatsoever (like getting on the wrong side of their principal)” (Center for Education Organizing, 2011). They were also intended to prevent patronage and nepotism in a semi-profession that has historically been subject to both (Goldstein, 2014). In this respect, seniority has been embraced as a transparent and uniformly attainable criterion. Every teacher (provided they aren’t RIF’d) has the potential to accumulate enough seniority to acquire protection from layoffs. Seniority protections also signal respect for teachers’ commitments to a demanding and essential, but often disrespected, career. Senior teachers in LAUSD have spent years working long hours under trying conditions on behalf of many of the nation’s most vulnerable residents. For these and other reasons, union members have historically embraced the fairness of seniority (Goldstein, 2014).

Nonetheless, firing the twenty Skyline teachers and six counselors simply because they were less senior than others in the system seems patently unjust. They, too, had committed years of their lives to educating high-needs kids under very challenging circumstances. Together, these educators had helped to create a school that served 2500 low-income students of color, inspired a 93 percent daily attendance rate (far above neighboring schools), increased their state Academic Performance Index (API) score by an impressive 110 points, helped students graduate at a rate 20 percent above the district average, and worked to triple student acceptances to four-year colleges. Nor do we mean to suggest that only a few outstanding teachers from Skyline experienced RIFs as a patent injustice. In 2012, when 20 Skyline teachers were fired, LAUSD laid off an additional 1500 teachers—down from an initial 9000 teachers who received layoff notices until the union agreed to district-wide furloughs. This is on top of the thousands of teachers laid off previously; by 2011, the number of early-career teachers in LAUSD had fallen by nearly 15% due to repeated RIFs (National Council on Teacher Quality, 2011). Surely many of those teachers were also hard-working, dedicated, and effective professionals. So Skyline teachers merely illuminate the broader injustice that underlies firing thousands of teachers for no reason other than that they had taught in Los Angeles Unified for fewer years than their colleagues.

Furthermore, RIFs unjustly harm students as well as teachers. LAUSD has issued more layoffs in the last few years than any other district in the nation. Although LAUSD has also been losing students, the rate of student loss—5.1% over the past 5 years, from about 687,500 students in 2008-2009 to 651,000 in 2013—is drastically lower than the 21% of teachers lost over the same time period, from about 35,000 in 2009 to about 27,800 in 2013.³ In a just world, school districts would not lay off teachers because of budget cuts that take no account of student need. In a just world, average high school class sizes in LAUSD would not have risen to 42.5 students in 2012—especially given that LAUSD serves a historically marginalized student population already challenged by poverty, family dislocation and/or disruption, English language learner status, racism, and other forms of discrimination (Los Angeles Unified School District, 2012). In a just world, three middle schools would not have lost 45 to 60 percent of their faculty to RIFs over two years—a decimating blow from which virtually no institution could recover (Felch et al., 2010).

Even though RIFs are intrinsically unjust to both students and teachers, however, there still must be less and more just—or at least, more and less *unjust*—approaches to firing teachers under these circumstances. Our purpose in this paper is to tease out what a less unjust approach to RIFs would be, given the patent injustice of massive teacher layoffs

in a district already stretched past capacity in its efforts to serve over half a million high-needs students. Note that we say *given*—not “notwithstanding”—the patently unjust context in which RIFs are being carried out, because we believe philosophy can play a particularly useful role when it takes account of unjust conditions rather than assuming them away. By rooting our analysis within the injustice, and trying to determine what would count as just action within this unjust context, we enact our philosophical commitment to non-ideal theory, which we take to be theory that accounts for existing injustices and has the capacity to be action-guiding (Sen, 2009; Simmons, 2010; Stemplowska and Swift, 2012).

In accounting for existing injustices from the start, we hope to avoid what Charles Mills (2005) charges is the “ideology” of idealizing social ontologies and institutions, and as a consequence ignoring or even suppressing consideration of pervasive inequities, domination, and oppression. It matters, for example, that the students in LAUSD are mostly low-income children of color; it matters that less-experienced teachers disproportionately teach in schools serving less-privileged students; it matters that teaching is a low-status, feminized profession with shockingly little professional preparation, development, or autonomy; it matters that many principals seem unable to identify or support high quality instruction in their own schools; and it matters that current accountability mechanisms are rather crude mechanisms for mistrustful oversight rather than engaged educational inquiry. As we consider more and less unjust means of firing teachers for budgetary reasons, we must acknowledge and even embed ourselves within these very non-ideal conditions of teachers’, administrators’, and students’ lives. If we don’t, any theory of less-unjust teacher firings that we develop is as likely to exacerbate injustice as it is to mitigate such injustice.

Of course, there are still a number of questions that remain about which injustices we treat as fixed and which we treat as capable of being ameliorated or even overturned. In this paper, we take as given the existing injustice of the systematic underfunding of urban schools, and the consequent politically-constructed budget crises that lead to the “necessity” of RIFs. This is a strategic choice on our part, to accept the definition of the problem as being *how* we fire public school teachers *given* budget cuts, rather than redefining the problem to ask *why* we set up the “necessity” of firing public school teachers *by* cutting budgets. We fully acknowledge that non-ideal theory could (and should) be done productively by asking the latter question, taking into account other existing injustices around race, class, segregation, regressive taxation, and so forth. We choose to locate our theorizing within the existing budget cuts, however, because of our interest in guiding action in the relatively immediate here-and-now. How teachers are selected to be fired is a matter of intense current debate within and among teacher unions, school and district administrators, school boards, state and national policy makers, students, parents, and citizens as a whole. Many districts are seeking better ways to lay off teachers. Buoyed by their initial success in *Vergara v. California*, which challenged California’s seniority-based RIFs as well as teacher tenure practices and due process regulations for teacher firings, opponents of seniority-based teacher protections are also mobilizing court challenges nationwide. By accepting the contextual circumstances of the layoffs—the expansion of high-stakes testing, shifting state and district finances, mutual mistrust between many teacher union locals and management, etc.—we position ourselves to offer ethical analysis that is actionable by school boards, human resources departments, and the like, in the here-and-now.

In considering what RIF procedure would be least unjust, we face four questions: To whom is justice owed? What does justice demand for each set of claimants? To what extent are these demands compatible, and to what extent do they conflict with one another? If and when they do conflict, what principles or procedures should guide their resolution, and why? In line with our commitment to non-ideal theory, we build our answers to these questions up from the ground-level dilemma about RIFs at Skyline, rather than applying pre-established principles that were formulated to address ideal contexts and circumstances. We do assert *a priori* that schools should serve children's interests. Beyond this, however, we try to reason from the facts on the ground to construct a normatively-justifiable, least-unjust approach to teacher firings. In so doing, we align ourselves with Amartya Sen's arguments that it is perfectly possible to do good non-ideal theory that distinguishes between more and less unjust states of affairs without reference to a separate "transcendental," ideal theory of justice (Sen, 2009).

We start by analyzing what is least-unjust toward students, then consider the implications of least-unjust policies for teachers. In the end, we argue that justice for students and justice for teachers are substantially coextensive when determining budget-driven teacher layoffs. Teachers and students turn out not to be antagonistic claimants, but instead are mutual allies. Furthermore, to the extent that teachers' and students' justice claims are not aligned, this lack of alignment likely reveals not an intrinsic conflict, but a policy failure that is itself borne of prior injustice.

(In)justice for Students

We begin with students, since no matter what purposes schools are expected to serve, they must operate with *children's* interests in mind. A school system that was organized to serve the interests of adults in preference to students' needs would rightly be condemned as fundamentally illegitimate. What, then, might students rightly claim as a matter of justice in the face of mandated budget-driven teacher layoffs?

One significant criterion in firing teachers is that students have a claim to being taught by more rather than less effective teachers. If teachers must be fired, then we should attempt to let the least effective teachers go while retaining those who contribute most to students' learning and well-being.⁴ In the first year of RIFs, seniority-based layoffs (SBLs) may have met this criterion, since there is evidence that first- and second-year teachers are less effective than their more senior colleagues (Rockoff, 2004). By 2012, however, SBLs were likely not aligned with teacher effectiveness, at least with respect to students' academic learning, as the evidence suggests that "there are few gains to experience after their third year of teaching" (Boyd et al., 2006: 193). These RIFs were laying off fifth and sixth year teachers—far beyond the early-stage newbies who may not have yet developed their teaching chops. Our own anecdotal experiences reinforce this assertion that SBLs fail to control for quality. One of the authors of this paper was named one of LAUSD's Teachers of the Year the same year she was first RIF'd; this paper's other author was pink slipped from Boston Public Schools the same year she was asked to help design the district's social studies curriculum. These are not unique tales, as the media has documented numerous cases of outstanding teachers being fired from schools on the basis of seniority (TeachPlus, 2011). In short, seniority cannot universally be accepted as a proxy for teacher quality.

Moreover, SBLs seem to harm some students more than others, as the plaintiffs in *Vergara* argued. California state law grants every student the right to “educational equality” in free public schools (Dowell et al., 2011). However, from 2009-2012, LAUSD issued more RIFs than any other district in California—more, in fact, than any other district in the nation. Even within LAUSD, the lower-income “hard to staff” schools, like Skyline, suffered far more RIFs than relatively affluent schools, which tend to attract teachers with greater seniority (UCLA Institute for Democracy Education and Access, 2009). As we mentioned above, at three of the lowest performing middle schools in LAUSD, RIFs were issued to 45 to 60 percent of the staff two years in a row. Because more senior teachers weren’t apt to transfer there, the schools had trouble filling their vacant positions. This instability in the teaching staff has demonstrably negative effects on students (Ronfeldt et al., 2013). In protest against such catastrophic destabilization of poor schools, the ACLU filed *Reed v. State of California* in 2010, alleging that low-income minority students were unfairly impacted by SBLs (2010). *Reed* resulted temporarily in a landmark settlement that prohibited layoffs at nearly 50 LAUSD campuses with a history of high turnover or low test scores. Because this decision threatened more senior teachers at other District campuses, however, the union appealed and won. In 2012, the appellate court reinstated seniority as the primary criterion for layoffs. A final settlement of the case in April 2014 commits LAUSD to additional hiring, professional development, recruitment and retention bonuses for principals, and teacher mentorship at 37 middle schools, but seniority-based layoffs remain (American Civil Liberties Union of Southern California, 2014).

Teachers’ accounts of their experiences at Skyline illuminate many of these problems with SBLs. Frequent RIFs have devastated Skyline’s young staff—half of whom had only started teaching when the school opened. In 2011, the school’s leaders reached an unusual agreement with the district in order to retain their staff: RIF’d teachers could remain at the school, but only as long-term substitutes in their former positions, with reduced salary and no benefits. Two thirds of the RIF’d teachers decided to stay, and by all accounts worked tirelessly, but then were re-RIF’d in 2012 when the district could no longer afford to offer Skyline any special provisions.

Theisen-Homer conducted semi-structured interviews about the RIFs with 32 Skyline teachers in June 2012. Teachers consistently indicated that the stress of the RIFs and subsequent turnover impacted students, who lost teachers who “really care[d]” and helped them achieve better outcomes.⁵ Teacher 1 observed, “Teachers don’t stay and of course the kids can’t build those relationships and they already have that kind of come-and-go relationship in their lives.” Teacher 2 bemoaned the “big struggles” with teachers who had been administratively assigned to the school after less-senior teachers were RIF’d. “It’s not business as usual here, and the kids are like... ‘These are not our teachers.’” Most of the staff also felt that the turnover replaced some “incredible” RIF’d teachers with “horrible” must-place teachers. Students were hence harmed academically, socially, and emotionally. As Teacher 3 explained, “The displaced teachers don’t have good rapport with the students. They have been teaching for many years and are at the end of their career and then that classroom is not going to progress....I know that those kids are great kids. It is because of a lack of relationship between teacher and student that is causing a disengaged [academic] environment.” Remaining Skyline teachers worried that after four years of significant growth, the turnover would result in lower test scores and reduced outcomes for students given “the number of long-term subs and must-place teachers.” This prediction was borne

out, as Skyline's API scores dropped two points in 2011-2012 after having steadily risen in prior years.

Injustice for Teachers

The RIFs put teachers in untenable positions along with the students. Non-RIF'd "must-place" teachers found themselves working in schools like Skyline that were hostile to their very presence and deeply suspicious of their capabilities. Teacher 1 questioned, "Why do we have to let go of extremely qualified teachers for this job who already have relationships with this community for teachers who might not even want to be here?" Teacher 4 added, "I think that the majority of the staff agrees that these teachers shouldn't be here." Many veteran Skyline teachers described their new co-workers simply as "really bad." A popular local news source described the transfers of must-place teachers as the "dance of the lemons" (Barrett, 2012). Even if the non-RIF'd must-place teachers were caring, committed, and capable individuals, they would have been hard-pressed to prove it in such an atmosphere.

The permanent teachers who remained at Skyline also experienced distress at the loss of RIF'd teachers. "I am happy that I am not in their position," Teacher 4 explained, "but it makes me angry. We have these awful teachers who continue to get paid while some awesome teachers who the kids love who don't get their paychecks. It is really discouraging." Teacher 5, one of the most senior teachers at Skyline, agreed that if he could change one thing about the school, "I would do something to make these new young teachers feel happy coming to work... [I would] change layoff notices." This wasn't just sadness over job losses in general. Permanent teachers also pointed out that it became harder for them to do their own work well. Teacher 6 said, "I have a feeling there are many teachers who are going to be gone. And that's going to put a strain on the [current] teachers with all the new teachers." Idealistic newer teachers had established much of the initial culture at the school by taking up leadership positions and spearheading efforts to bolster curricular innovation and school spirit. This was a draw for other teachers, who had themselves remained committed to Skyline as a result. Teacher 7 noted, "Because many teachers are young, they are RIF'd and I am sad to see many of my fellow teachers and friends get fired every year. Many Skyline teachers are amazing, hardworking individuals. That is one of the reasons I have stayed at Skyline for so long." By contrast, Teacher 1 explained, "losing some incredible teachers" led to "lower[ed] morale," disinvestment by students, loss of classroom management, and an eventual "lasting" diminution of school culture.

Finally, of course, seniority-based layoffs did not serve the interests of the RIF'd teachers themselves. They had been teaching for an average of four years, had supposedly been granted "tenure," and had proven themselves at the school; however, they were still being laid off—repeatedly. (Repeated layoffs each spring, many of which are then rescinded during the summer, are common as a bargaining tool to force union concessions; they are also issued because of regulations about when and how layoff notices must be sent in order to ensure staffing flexibility in the face of looming budget cuts.) Teacher 8 stated, "I feel like it's a way for the district to exploit us. They don't have to pay us during the summer, they make us feel like we are lucky to get our jobs back and work for less pay and benefits than what we should be getting, and if we were to get sick of it and quit, it's no big deal because there are thousands more waiting in line to take our place." Most teachers felt

the process was “demeaning” and “scary.” Teacher 3 explained, “I had to go on unemployment [over the summer], which was a huge blessing because it was the only way I could pay my rent, but I had to accept the fact that I couldn’t support myself.” Almost all of the RIF’d teachers expressed feelings of anxiety as a result of their precarious employment, stressing feelings of “uncertainty” and “instability,” which likely had an impact on their teaching.

The Challenges of Performance-Based RIF Layoffs

Given all of these ills stemming from SBLs, it seems as if any just approach to RIFs in LAUSD would substitute performance-based layoffs (PBLs) for seniority-based layoffs—assuming the state education code could be amended legislatively or will be overturned judicially by *Vergara* once it works its way through the courts. At the very least, conducting layoffs by performance instead of seniority would result in fewer teacher dismissals, because laying off more senior teachers would save money and hence reduce the total number of needed layoffs (Boyd et al., 2011). In Los Angeles, “an estimated 25% more teachers would have kept their jobs if L.A. Unified had based its cuts on teachers’ records in improving test scores” (Felch et al., 2010). This reduction in RIFs would benefit students by stabilizing schools, protecting their relationships with caring adults, and slowing the expansion of class sizes (Ehrenberg et al., 2001). Even more to the point, PBLs seem self-evidently superior to SBLs because it is better for students to have effective rather than “horrible” teachers. PBLs’ purpose is to take such gradations in quality into account; SBLs do nothing of the kind.

The problem with this approach, however, is that LAUSD is like most districts across the country in failing to establish a reliable and accepted system to evaluate teacher “quality.” Furthermore, given the challenges of making comparative evaluations of teacher quality across different school contexts, it is not obvious that a just system of performance-based layoffs could ever *be* created. Consider the most prominent current approach to measuring teacher performance: Value Added Measurement (VAM), used by thirty states in various forms. VAMs endeavor to account for the learning gains a student makes over the course of a year with a particular teacher, while attempting to control for a student’s previous yearly growth as well as personal and school characteristics. These admirable aims, however, are subject to immense practical constraints:

- Many teachers do not teach tested subjects.
- Even among those who do, standardized tests measure limited content and are not vertically scaled to measure student growth over time. VAMs hence take scores that were validated for one purpose (e.g. to measure content mastery at a particular grade level) and transform and use them for an entirely different purpose (to measure student growth) for which they were neither designed nor validated.
- VAMs disincentivize experimentation, ambitious but high-risk reforms, collaboration, peer learning, and shared responsibility for students.
- VAMs emphasize teachers’ classroom performance and their students’ academic growth to the exclusion of all other contributions teachers might make to students’ well-being outside the classroom and to the effectiveness of the school as a whole.
- VAMs may incentivize teachers to “teach to the test” or help students cheat on exams.

- Even carefully-constructed VAMs fail to fully account for how students' demographic characteristics may impact their test scores. Year-over-year VAM scores tend to fluctuate considerably, for example, because student differences likely have a greater impact on VAM scores than teachers' own capacities or effort. (Koretz, 2008; Ho, 2014; Darling-Hammond, 2014; Moore Johnson, 2014).

In addition to these practical constraints, all VAMs are subject to the same critical flaw that neither students nor teachers are randomly distributed across or within schools, which invalidates any causal judgments made on the basis of VAM scores (Braun, 2005). VAMs likely disadvantage teachers at low-income urban schools in particular—schools like Skyline, where one-third of students are Limited English Proficient and 100% come from low-income homes. In addition, even if they serve identical student populations and use equally high-quality pedagogical techniques, teachers in low-functioning schools are likely to earn lower VAMs on average than teachers in high-functioning schools. This is because context matters for student learning. In saying this, we are not “excusing” teacher “failure.” Rather, we are acknowledging that a teacher doing high-quality work in a chaotic environment is likely to appear less effective—in fact, to *be* less effective—than a teacher doing similar (or even worse) work in a stable environment that advances students' learning and well-being throughout the day. Insofar as LAUSD has to apply RIFs fairly across the entire district, performance-based assessments that rely on test scores seem like poor proxies for justice toward students or teachers. This is to say nothing of the fact that VAM scores are generally not even available until the summer, which would prevent the district from providing much notice prior to laying off teachers.

Given VAMs' manifold challenges as a valid, reliable, or timely measure of teacher performance, an alternative approach is to assess teacher effectiveness via administrator observations. However, the failure of principals to reliably judge teacher quality via observational measures is in large part what led to seniority-based protections in the first place. Even though due process rights are more established today, teachers still feel as if they are battling capricious administrators working within a “seriously broken” teacher evaluation system. Many of the Skyline teachers, for example, told stories of “nit picky” and “overly punitive” classroom visits conducted “for ten minutes” by the school's new leadership team, whose members “don't understand the content.” Furthermore, the present system, the Stull Evaluation Process is notoriously unproductive. Teacher 9 explained, “I do think that the Stull process is a joke...because neither the teacher nor the administrator really has the time to do it correctly. So as we see in the news, it does tend to be a rubber stamp.” Such problems are not confined to Skyline. Only 40% of tenured teachers in LAUSD are evaluated annually; they rarely receive feedback; and only 2.5% receive a “below standards” evaluation in any given year (National Council on Teacher Quality, 2011). Given such a flawed system, LAUSD rarely identifies and retrain, let alone removes, ineffective teachers. The plaintiffs in *Vergara* offer a stark analysis, comparing the 1 percent dismissal rate for CA state employees overall to the 0.002 percent dismissal rate for LAUSD teachers (Guzman-Lopez, 2012). Furthermore, Stull evaluations are focused entirely on the teachers' classroom performance, excluding consideration of teachers' other contributions to the school. Clearly, classroom-level Stull observations could not fairly determine thousands of performance-based RIFs.

What is just, toward whom, and why?

In an ideal world, principals would be outstanding instructional and administrative leaders who could reliably evaluate teachers, get rid of those who are truly ineffective, and be confident that even if they have to lose additional teachers because of cuts in positions, they are not contributing to the district-wide “dance of the lemons.” Given that this ideal world does not exist—seemingly anywhere in the United States, and certainly not in LAUSD—what principles and insights should guide our construction of a non-ideal theory for least-unjust teacher firings under inherently unjust circumstances?

To begin with, it seems self-evident that LAUSD owes students effective teachers and stable schools. However, meeting these obligations of justice in an era of RIFs sets up a series of perverse incentives. Given the limitations of VAMs, it is in teachers’ interest to teach privileged students in stable school settings, rather than to teach more challenging students in more challenging school settings. This reverses the incentives we would want to establish for teachers to go into high-needs schools serving high-needs student populations. A VAM performance-driven system might actually encourage Skyline’s most capable teachers to decamp immediately to a less challenging environment. Similar concerns arise about the most basic way to ensure that schools could retain more teachers, and by extension, a larger number of effective teachers: namely, by engaging in *reverse* SBLs, laying off the most experienced teachers first since they are the most expensive. There is little data to suggest that a 30-year veteran is more effective than a teacher with 10 or even six years of experience. So reverse seniority-based layoffs, beginning with the most senior teachers, may advance students’ short-term interests by keeping class sizes smaller with no diminution in teaching quality. Teacher 10 actually suggested this, “From a purely business perspective, if a district is going under, wouldn’t they want to get rid of the people who they are paying the most? The people at the top of the payroll.” However, such layoffs would also potentially undercut students’ interests in the long-term, as teaching in LAUSD would become even less attractive than it is already. No one devoted to pursuing a teaching *career* would choose to teach in LAUSD if they could help it.⁶

One fascinating—and to us, initially quite surprising—consequence of this analysis is the realization that students’ and teachers’ interests are aligned in such a way that justice toward students is generally consistent with justice toward teachers. It’s not that we were surprised by this conclusion because we had bought into the current rhetoric about solely self-interested, lazy, or even incompetent teachers who failed to “stand for children” or put “students first.”⁷ We are both experienced urban educators who know better than to view public school teachers—or their unions—as the primary source of educational injustice and malfeasance in the world. Rather, we were surprised because there is little *a priori* reason to assume that what an educational system attempting to implement budget-driven layoffs (RIFs) owes teachers as a matter of justice is substantially coextensive with what it owes students.

In particular, our analysis reveals that both teachers and students deserve a system of non-arbitrary firings that would reduce school-level upheaval, target the least-effective teachers, and reward those teachers who teach the least privileged students and/or teach in the hardest schools in such a way that incentivizes success rather than failure. Such a system is not perfectly achievable under current conditions. Teacher layoffs driven by budget cuts rather than by changes in students’ needs or demonstrated ineffectiveness are bound to create some upheaval among or seem arbitrary to those fired. In a system with no reliable metrics to assess the effectiveness of a large percentage of teachers—thanks to

poor observational protocols, indifferently prepared principals, and questionably designed and incontrovertibly misused high stakes tests—RIF layoffs will continue to target some more-effective teachers, and likely reinforce some continuing perverse incentives.

Nonetheless, we conclude that students' and teachers' claims to the above principles strongly support the development and implementation of a blended or holistic teacher evaluation system that should be considered in RIF layoffs, rather than solely seniority-based layoffs being the norm. This "holistic" teacher evaluation system is an approach that teachers themselves seem to favor. Teacher 7 explained, "They should have a system where they analyze every aspect of the teaching: test scores, student opinions, observations—real observations and many of them—student work samples, teaching portfolios, and teacher self analysis." We would also recommend including evidence of teachers' broader contributions to student well-being and success of the school as a whole, through mentorship, teacher leadership, policymaking, and the like. Other teachers echoed some of these ideas, supporting the use of peer, parent, and student evaluations of practice to yield "a varied perspective." Teachers wanted decision makers to consider evidence that truly reflected their class and curricula, like student work samples and teacher portfolios. Interestingly, the performance measure most favored by Skyline teachers was "student course evaluations," which seem to predict student achievement gains more consistently than either administrator observations or VAMs (MET Project, 2012). Skyline teachers most wanted to be judged by "the ones who are in class everyday." Students, too, are likely to agree that this is one appropriate component of a less-unjust system of teacher evaluations and firings. Student evaluations might also serve to correct the problematic hierarchical nature of evaluation, which positions teachers and students at the bottom of evaluation and administrators and policymakers at the top and thus undermines teacher professionalism.

Such an approach remains a second-best solution, given the challenges of developing and implementing a reliable or valid evaluation system. While some Skyline teachers considered such an evaluation system to be feasible even if "really tricky," for example, a few other teachers thought the feat "impossible." Teacher 9 explained,

The sort of impossible thing about teacher evaluation is that the stuff that you are evaluating is constantly changing and in flux. Students are constantly changing, they are different every year; at a school like ours, they even change within the year....The courses we teach as teachers [also] change every year. We might teach ninth grade one year and twelfth the next. And certainly recently, the standards are even changing, from the California standards to Common Core. There would have to be a waiting period while we all get used to the new standards. So given all of that, it's kind of impossible.

Given these very legitimate concerns, we do not claim that the use of holistic teacher evaluation practices to fire teachers on budgetary grounds would be intrinsically just. It is, however, less unjust given the unjust context of RIFs in LAUSD than are layoffs based on seniority alone.

A second intriguing conclusion of this analysis is that where teachers' and students' justice claims are not aligned, this lack of alignment likely reveals not an intrinsic conflict, but a policy failure. We are thinking in particular of the disjuncture between seniority and measured performance, and its implications for teacher firings. As we noted above, reverse SBLs—i.e., firing the most senior teachers—would save teaching positions, as the most

senior teachers are also the most expensive. This would clearly be good for students in the short run, but patently unjust to teachers, to fire veterans simply for having been most dedicated to teaching. The reason that this disjuncture between teachers and students arises, however, is because of prior injustices that harm teachers and students alike. One of these is the failure of American public schools to create a differentiated career path for teachers (Johnson and Papay, 2009). Unlike in virtually any other profession, most teachers' jobs in their twentieth year are identical to their jobs in their second year. Hence, teachers have little opportunity to make use of their hard-won wisdom through taking on roles that they weren't prepared to assume when they were younger. In this respect, veteran teachers' lack of demonstrated effectiveness in comparison to newer teachers may reflect schools' and districts' failures to capitalize on veterans' knowledge, rather than teachers' failures to improve at their craft. Furthermore, to the extent that veteran teachers *haven't* learned how to improve over time, this would again suggest an institutional failure to provide teachers meaningful and effective professional development so they can actually improve in their chosen profession. This again strikes us as being a profound injustice, to subject teachers to a profession in which—despite dedicating themselves to it as a career—they cannot get better over time. It is also a profound injustice toward students, who would benefit from an education system that fosters systemic improvement and dissemination of wisdom, not stagnation.

Conclusion: Policy, Theory, and Method

What do we learn from this inquiry into the decidedly non-ideal world of budget-driven teacher layoffs in LA? As a matter of *policy*—which we address because of our belief that non-ideal theory can and should be action-guiding—we conclude that despite the lack of any consistently reliable or valid form of teacher evaluation, the *least unjust* way to RIF teachers is based on their score on a holistic evaluation combining student evaluations, administrative evaluations, peer evaluations, teacher portfolios, value added measures (where possible and appropriate), and seniority, modified by school stability considerations.⁸ The development and implementation of a thoughtful holistic evaluation system would require additional resources, of course, and many school systems such as LAUSD remain resource-strapped—that's the reason for RIFs in the first place. Holistic teacher evaluation with meaningful results that are comparable across schools may sound more like idealistic fantasy than applicable non-ideal policy when 5000 teachers must be fired in a single year. But it is sufficiently preferable to—and more just than—SBLs or PBLs on their own that we think it is worth pursuing even in a decidedly non-ideal fashion.

Second, as a matter of *theory*, we conclude that justice toward students and teachers is more coextensive than would be assumed *a priori*—and when they pull in opposing directions, that may be a sign of system failure rather than of intrinsic conflict. This is an important insight that is worth additional attention. Good teachers have always recognized that their interests are aligned with those of their students, because teachers' success is entirely dependent upon students' success. That's what it means to be a good teacher, to help students achieve great outcomes. But there is surprisingly little theory that addresses this point, especially with regard to contemporary structuring of the teaching profession or teachers' unions. We believe that these are fertile areas for further investigation.

Finally, with respect to *methodology*, we conclude that deep inquiry into a particular normative case study like LAUSD's RIF policies fruitfully advances non-ideal theory in two

directions. By diving into the empirical particulars of a vexing and complex case, we are able to develop new normative arguments about mitigating educational injustice in teacher firings and evaluation systems, and about the normative relationship between teachers' and students' interests in a more ideal educational system. Sticking to the particulars of LAUSD RIFs also enables us to take account of socially constructed relationships of discrimination and domination around race and ethnicity, class, language, and the (semi-)professional status of teachers. At the same time, by diving into the normative analysis of this case, we are able to develop new policy-relevant arguments about budget-driven teacher firings. LAUSD RIFs do not merely provide fodder for philosophical reflection; such reflection also returns the favor by providing potentially actionable recommendations for policy reforms. Normative case studies, we argue, enable such bi-directionality.⁹ Policy and practice analysis push normative theory forward, while the resulting normative analysis pushes policy and practice in new directions. This is hence a promising methodology for non-ideal political and educational theorists more broadly.

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¹ Pseudonym

² These statutes are now (as of October 2014) up in the air, as their constitutionality was successfully challenged in *Vergara v. California*, decided at the Los Angeles Superior Court level in June 2014 but now under appeal. In this case, plaintiffs argued that state guarantees of equality of educational opportunity are violated by seniority-based layoffs,

teacher tenure practices, and due process regulations for teacher firings. The decision has been stayed pending appeal.

³ These student and teacher losses were calculated using <http://home.lausd.net/ourpages/auto/2011/12/22/46088560/Fingertip%20Facts%2013-14-100913.pdf> for current LAUSD data and http://nces.ed.gov/pubs2010/100largest0809/tables/table_a01.asp for 2008-2009 data.

⁴ Although we present this as a self-evident claim, and use it as the foundation for the rest of the paper, we do want to acknowledge that this formulation risks giving undue weight to teachers' *individual* contributions *directly* to students' well-being, ignoring important social, organizational, and cultural features of teaching and of schools. First, teachers may improve students' learning and well-being more by contributing to the broader school environment than by working effectively directly with students. Teachers may be mediocre in the classroom, for example, but play essential roles in the larger school environment: reaching out to new immigrant families and connecting them with essential social services; directing a peer mediation program that keeps the school's suspension and expulsion rate at a third of comparable institutions; or mentoring younger teachers and even administrators in powerful ways. Second, as these examples suggest, those teachers who do demonstrate success directly with students may do so precisely because of the larger school ecology. In the absence of the wise mentor or the dynamic family services coordinator, their own outstanding practice might not be possible. We return to these concerns about disaggregating individual teacher performance from the collective school and social context in our discussion of Value Added Measures, below.

⁵ In order to protect confidentiality, we have replaced teachers' names with indexed pseudonyms: Teacher 1, Teacher 2, etc.

⁶ RIFs, it should be noted, may well have a similar impact on turnover. Teacher 5, one of the most senior teachers on campus, reflected about RIFs, "If this was the beginning of my teaching career and my job was up in the air, I wouldn't want to do it."

⁷ Stand for Children is, of course, the Democrats for Education Reform-supported organization that helped break the back of the teachers unions in Wisconsin and other states. Michelle Rhee, the controversial former superintendent of Washington, D.C. public schools, founded Students First in 2010.

⁸ Linda Darling-Hammond (2014) recommends that a holistic evaluation should be used as a "basket of evidence," not collapsed into some pre-determined composite number based on an arbitrarily weighted formula. This seems absolutely right under normal circumstances. We put forward a "score"-based approach only because we are assuming that LAUSD will continue to pursue an industrial model of *en masse* teacher firings predicated on a single or composite score of some kind.

⁹ We borrow the language of "normative case study" from Thatcher, 2006.