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Disabling Intervention: Intellectual Disability and the Justification of Paternalism in Education

KEVIN MCDONOUGH
McGill University

ASHLEY TAYLOR
Colgate University

This paper criticizes mainstream philosophical justifications for paternalism in children's education, highlighting their exclusion of students labelled with intellectual disability. Most philosophical justifications of paternalism presume "able-mindedness" – that is, they presume that learners possess the potential to develop capacities of rationality and autonomy considered normal – and normatively superior – for adults. Prioritizing these able-minded norms obscures educationally worthwhile communicative, reasoning, and behavioural capacities that diverge from able-minded norms, but which nevertheless express forms of rational and epistemic agency that are educationally beneficial. The paper argues that able-mindedness therefore constitutes a conceptually impoverished basis for educational paternalism. A number of harmful educational implications of able-minded educational paternalism are explored and a more promising and inclusive avenue for justifying educational paternalism is briefly outlined.

Introduction

Paternalism is a pervasive and systemic presence in the lives of people labelled with intellectual disability.[1] Indeed, they experience paternalism to a far greater degree than their peers who are regarded as able-minded. At all ages, and in many different settings (the family, the school, the legal system, the workplace), intellectually disabled people are subject to practices that interfere with their freedom and agency ostensibly for their own benefit.

This asymmetry of paternalistic intervention is widely regarded as justified. For example, intellectually disabled people are seen as not needing or warranting conditions of privacy that are routinely acknowledged as essential for their non-disabled peers: "The meaning-making of the impairment diagnosis [of intellectual disability], for some, warrants an intrusion into private decision making, thus rendering these decisions worthy of public scrutiny, if not regulation … A diagnosis of intellectual disability, because of the way services are often rendered, too often means that individuals are in residential locations where privacy is not expected" (Gill, 2015, p. 122).

In schools, students labelled with intellectual disability are frequently denied opportunities to develop the competencies and knowledge needed to exercise political, moral, and epistemic agency in later (adult) life, and this denial of opportunity is predicated on the pervasive and unexamined

[1] Intellectual disability is a diagnosis and subsequent label ascribed to people on the basis of assessments of intelligence and adaptive behaviour. We use the terms "labelled with intellectual disability" and "intellectually disabled" to emphasize the fact that this term is a socially assigned attribute rather than an essential characteristic of individual people.

assumption that intellectually disabled people will be justifiably subject to some degree of paternalism throughout their lives. This assumption is evident in the continued emphasis on guardianship within K–12 transition-planning (Petersen, 2009; Rood, Kanter & Causton, 2014), in the absence or limiting of sex and sexuality education for labelled students (Gill, 2015; Gougeon, 2009), and in the absence of citizenship education for intellectually disabled students (Carey, 2009; Taylor, 2020). It is also starkly manifest in paternalistic intervention and discipline practices to which intellectually disabled students are subject, including restrictive behavioural programs and, on the more extreme end, the use of restraints and seclusion in schools and institutions (ACLU, 2009; Morris, 2021). These contemporary practices follow a long and violent history of the denial of agency to intellectually disabled people, including through institutionalization, sterilization, eugenics, and other educational forms of exclusion and segregation, many of which are presented as being in their best interests (Baker, 2002; Carey, 2009; Carlson, 2009).

This summary of historical and contemporary practice illustrates the harms that have been done to intellectually disabled people under the guise of necessary and benevolent paternalism. However, it does not imply that paternalism is in principle or always harmful or unjustified in the education of students labelled with intellectual disability. As many philosophers of education have discussed, paternalism toward children in educational settings is often a temporary measure – that is, confined to stages of life that precede adulthood – designed to benefit students by facilitating capacities of agency that children cannot develop on their own (Brighouse, 2003, 2006; Gutmann, 1980; Schouten, 2018). Indeed, paternalism is often assigned a fundamental, positive role in children's education, particularly within liberal egalitarian philosophy of education (Drerup, 2017; Giesinger, 2019). Nevertheless, the reality of the pervasive and corrosive role of paternalism in intellectually disabled people's lives is in glaring contrast with the emphasis that many philosophical accounts place on the benevolent role of paternalism in education.

In this paper we consider how mainstream philosophical accounts of paternalism's role in education imply that a cognitively able learner is a normatively neutral starting point for considering paternalism's role in education; in other words, these accounts presume that paternalism is directed toward able-minded learners. We show that the starting point of philosophical consideration is a learner who possesses the potential to develop capacities that are considered normal for adults – in particular capacities for rationality and autonomous agency. Insofar as the normative foundations of paternalism are able-minded adult norms of rationality and autonomy, the appropriate role of paternalism in education is to promote these norms. And yet, not all adults express rational agency and autonomy in ways that conform to such able-minded adult norms. In fact, some adults exhibit linguistic, reasoning, and behavioural capacities that do not reflect able-minded norms, but that nevertheless constitute elements of their well-being or expressions of epistemic agency. In principle, paternalism may play a role in promoting such capacities and forms of expression. However, we argue that philosophical theories that prioritize able-minded norms of rationality and autonomy overlook and indeed foreclose this possibility.

In the first section, we show how philosophical accounts of paternalism toward children rely on assumptions of able-mindedness designed with cognitively able learners in mind. In the second section, we outline several harmful implications of able-minded paternalism, particularly but not exclusively for students labelled with intellectual disabilities. After responding to potential objections in the third section, we conclude by offering some brief insights into more conceptually and practically inclusive philosophical theorizing about paternalism in education.

Locating Able-Mindedness in Educational Paternalism

Our purpose in this section is to illustrate what we call the problem of able-mindedness in philosophical conceptions of educational paternalism. Able-mindedness as we define it is a set of normative standards of cognitive and developmental normalcy, or the manifestation of ways of processing information and communicating considered normal or typical, and regarded as necessary for full expression of adult rational agency and autonomy (Kafer, 2013; Schalk, 2018). Able-mindedness reflects broad cultural attitudes about the superiority of fast-paced, verbal displays of intelligence, unaided capacities for abstract thinking, and conformity to social norms of interpersonal behaviour and expression. The term "able-mindedness" is frequently referenced alongside "able-bodiedness" to describe the state or condition of being mentally able (or non-disabled). At the same time, the concept of able-mindedness also includes the presumption that mentally able (cognitively, intellectually, neurologically) people have qualitatively superior capacities for epistemic and moral agency than do people considered mentally – cognitively, intellectually, neurologically – disabled. The corollary presumption that intellectually disabled people have qualitatively inferior capacities for moral and epistemic agency is structured on the view that they are perpetually or permanently "unfinished adults" (Kafer, 2013, p. 54). The presumption of able-mindedness is manifest in what Simplican calls "compulsory capacity," or the grounding of moral and civic equality in the possession of a threshold level of rational capacity (2015). Compulsory capacity shows up in justificatory accounts of paternalism that express the normative superiority of adult (able-minded) capacities and expressions of rationality and autonomy. In what follows, we argue that able-minded norms provide a conceptually impoverished basis for educational paternalism.

The role of able-mindedness has so far been overlooked in philosophical debates about paternalism. In its role as a justification for paternalism in education, able-mindedness has its roots in familiar arguments that are advanced to justify paternalism toward children. Highlighting the role of able-mindedness illustrates how these roots also nourish justifications for paternalism toward people labelled with intellectual disability. Specifically, we will show that both lines of justification for paternalism assign normative pre-eminence to adult norms and capacities of rationality and autonomous agency for justifying policies and practices of educational paternalism.

Most philosophical theories of paternalism view paternalism as ethically acceptable toward children but not toward adults. As Ben-Porath notes, "Children seem inherently subject to paternalism, to being directed toward what is deemed by adults to be a better path, to have others decide for them" (2010, p. 66). But philosophers disagree about what exactly it is about children that renders them uniquely subject to paternalism. Some arguments for paternalism toward children focus on the benefits of paternalism for ensuring children's well-being or flourishing.[2] According to these "welfare-based" accounts, paternalism is justified toward children because they, unlike adults, are unfit to govern themselves (Brighouse, 2006).[3] Brighouse's recent defense of paternalism in children's education is exemplary in this respect. According to Brighouse, children are "highly imperfectly informed about what will make for a flourishing life, and spectacularly ill-equipped to pursue one" (ibid., p. 43). For this reason, he argues, educational paternalism is necessary to promote the capacities children need "to facilitate their long-term prospects for living a successful and flourishing life" (ibid., p. 43).

Contrastingly, agency-based[4] defenders of paternalism view its educational role as equipping children with capacities of autonomous agency that will "help them to become the kinds of people

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[2] The *locus classicus* of the welfare view is John Stuart Mill's account in *On Liberty* (2002).

[3] For critical discussions of welfare-based and agency-based approaches, see Giesinger, 2019; and Franklin-Hall, 2013.

[4] We use the terms "welfare-based" and "agency-based" loosely, to reflect differences of emphasis regarding the moral significance of children's limited agency for the justification of paternalism. There is no implication of a hard and fast distinction here. Theories of paternalism can and often do combine elements of both approaches.

whom it *will* be presumptively insulting to treat paternalistically" (Schouten, 2018, p. 338). Gina Schouten has recently defended an "agency-based" justification of paternalism along these lines. Following influential arguments of De Marneffe (2006) and Shiffrin (2000), Schouten argues that paternalism toward adults violates ethical requirements of respect for individual autonomy and, as such, constitutes a morally repugnant insult. The moral force of this charge applies to cases in which paternalism is directed toward people who possess capacities of reasoning and autonomy, which Schouten presumes children lack. As Schouten says, because children lack capacities of autonomous agency, they are not agents "in the relevant sense" – that is, agents to whom the charge of insult might apply[5] – and thus "there is no insult in the *mere fact* of treating them [children] like a child" (2018, p. 339).[6] On agency-based views of this kind, ethical qualms about the possibility that paternalism constitutes a form of disrespect or insult toward children are misplaced, and therefore are not legitimate arguments for avoiding or restricting paternalism in children's education. Moreover, agency-based views emphasize a distinctive educational role for paternalism – that of promoting capacities of adult rationality and autonomous agency, not merely because these capacities are instrumentally valuable as a means of promoting children's welfare interests, but because these particular capacities are viewed as the basis for individual dignity or respect.

Agency-based and welfare-based approaches are often presented as contrasting justifications for paternalism toward children (Giesinger, 2019). Our purpose, however, is to show how both approaches share a basic assumption that characteristics associated with able-minded capacities serve as the basis for justifying paternalism. The problem of relying on such a conceptually limited standard for justifying paternalism's educational role is anticipated by Ben-Porath (2010), who notes that the most common philosophical justifications of paternalism are "based on their [i.e., children's] perceived deficiencies when they are compared to adults, who serve as the social norm" (p. 81).[7] However, the hierarchy of children and adults in this relationship is derivative rather than basic. The more fundamental division is between those who possess "normatively superior" capacities of rationality and autonomy, and those who lack these capacities (ibid., p. 76). In other words, the fundamental categorical and hierarchical feature of most philosophical justifications of paternalism is based on the "normative superiority" of rational capabilities of adults. Agency-based and welfare-based approaches to justifying paternalism imply, albeit for different reasons, that the educational role of paternalism is to promote these able-minded ideals.

Insofar as paternalism is justified by virtue of its role in enabling capacities of autonomous agency and rationality associated with normal adulthood, it is compatible with a wide range of specific educational goals. These goals may be tailored to somewhat diverse student dispositions, personalities, interests, and aspirations. Nevertheless, as philosophers of disability have noted, conceptions of autonomy associated with liberal-democratic theory typically assume a threshold or "normal range" of rational capacity, thereby positioning intellectually disabled people as social outliers (Silvers & Francis, 2005, 2009; Donaldson & Kymlicka, 2011). The range of capacities compatible with the justifications of paternalism we have been criticizing remains wide enough to include those capacities regarded as compatible with able-minded adulthood. However, insofar as educational paternalism is justified by virtue of its felicity in promoting capacities that align with able-minded norms, it also precludes

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[5] Tamar Schapiro's arguments are often cited in this regard (1999).

[6] As Schouten acknowledges, the idea that children lack "fully developed" capacities of autonomy does not imply that paternalism is always justified in children's lives. Rather, it implies that decisions about whether to impose or withhold paternalistic measures should be grounded in adults' best judgments about how best to facilitate the acquisition of adult capacities of rational autonomy that they presently lack. As such, although paternalism towards children is not as such insulting, it may nevertheless be judged morally repugnant on other grounds. See Schouten, 2018, p. 338.

[7] The whole discussion from Ben-Porath, 2010, pp. 73–88, is relevant. For an older critique along these lines, see Schrag, 1977.

paternalism's role in promoting expressions of student agency that fall outside the "normal range." In short, able-mindedness constitutes a conceptually impoverished basis for justifying educational paternalism.

We have highlighted how mainstream justifications of paternalism prioritize "compulsory" adult norms of rationality and autonomy, a move that positions children as "deficient adults" for educational purposes, *and* also casts intellectually disabled persons as "deficient" reasoners and learners, or perpetually unfinished – and deficient – adults. In beginning with a cognitively able (non-disabled) adult as the starting point of theorizing about paternalism's role in educating children, philosophical accounts tacitly advance able-mindedness as normatively superior.

However, the reliance on norms of able-mindedness within these philosophical accounts of paternalism's role in education are not only conceptually limiting, they also have real world implications within schooling contexts, as we explain in the next section.

Disabling Interventions: Consequences of Able-Minded Paternalism

A closer look at contemporary schooling practices shows that they appear often to enact the normative requirements of justified paternalism in ways that undermine young people's learning and belonging. In this section we outline two interrelated ways in which the conceptual reliance on able-mindedness arises in existing educational contexts. The first form of able-minded paternalism arises through *quantitative* assessments of agency (what we call agency deficiency); the second form arises through *qualitative* assessments of agency (what we call agency pathology). By outlining these two forms of paternalism, we show how able-minded norms confound potential efforts by educators to avoid exclusionary tendencies, and thus reinforce ableism, and other forms of structural exclusion, in schools.

First, conceptual frameworks of able-minded adulthood are reflected in educators' (often naturalized) understanding of students as developmentally deficient (that is, having diminished potential) for developing putatively necessary capacities of adult rationality. The deficiency perspective that is implied by the conceptual presumption of able-mindedness renders alternative expressions of agency unlikely to be read as valued forms of epistemic/rational agency.

The widespread use of the term "mental age" as a quantitative and qualitative measure of intellectual disability illustrates this point vividly. Students labelled with intellectual disability are often treated as if their mental or behaviour ages under-pace their chronological ages. In particular, the role of mental age within diagnoses of intellectual disability illustrates a reliance on a presumption of able-minded normalcy at the heart of traditional developmental approaches to education. If this static conception of mental age is taken as a natural fact about students' capacity, then they are unlikely to be seen as capable of developing the capacities necessary for adult rational agency. This is because mental age references a supposed gap between a person's chronological age and their assessed or ascribed developmental stage (usually based on metrics like IQ or evaluations of adaptive behaviour):

> In classical child developmental theory, children move through a defined sequence of stages toward adulthood, a one-way and linear march "upward." Children can be seen in this framework as "unfinished" adults, or as people who have yet to move through the necessary stages of growth and development. What this understanding of childhood often means is that disabled people, particularly those with intellectual disabilities (or "developmental" disabilities, as they are often known), are also cast as "unfinished" adults. (Kafer, 2013, p. 54)

As Kafer explains, a perceived disconnect between chronological age and mental age is taken both as a reason for suspicion of intellectual disability and as a tool for its diagnosis (i.e., the diagnosis of intellectual disability using developmental checklists and IQ tests). This perceived disconnect is also taken as justification for treating a person as if they resemble more the category "child" than the

category "adult." The concept of mental age is sufficiently pervasive that it shows up widely in educational and lay contexts as shorthand for the outdated "developmentally delayed." If intellectually disabled learners are treated as permanently incapable of developing the capacities of normatively superior adulthood, then paternalistic interventions, however disabling they may be, appear justified for that reason.

Whereas this example illustrates agency deficiency as a quantitative assessment, assessments of inadequate agency show up elsewhere in the contemporary landscape of schooling as qualitative assessments – that is, as assessments of pathological agency. Educators often correct students' behaviour, including their forms of communication/speech, bodily comportment, and interpersonal interaction, in the nominal service of preparing them for adult (social, political) life. In doing so, however, they can tacitly – and sometimes overtly – reinforce norms of able-minded adulthood, often meting out discipline based on students' perceived trajectories towards valued forms of adult rational agency (Connor, Ferri & Annamma, 2106; Broderick & Leonardo, 2016).

The capacity to demonstrate development consistent with able-minded forms of adult agency is attributed to or withheld from children according to educators' evaluative perceptions, including race, ability, gender, and class-based readings of students' identities and group membership. In this sense, agency-deficiency is a qualitative assessment, as students are seen as expressing the wrong kind of agency. Same-aged children are ascribed developmental stages on the basis of intersecting race, ability, and gender identities that do not necessarily correspond to generalized developmental categories of adolescence and adulthood (Broderick & Leonardo, 2016; Collins, 2013; Ferguson, 2000; Morris, 2016). That is, some young people are rendered excessively and yet pathologically adult in virtue of their intersecting race, ability, and gender characteristics.

Black and Brown youth are particularly and pervasively subject to this assessment of agency pathology; that is, they are read as improperly expressing adult agency, or failing to follow a normal developmental path towards able-minded adulthood. There are multiple dimensions to this assessment of Black and Brown children and youth, including the phenomenon of "adultification," described by Morris (2016) as a form of "age compression" wherein Black youth (and girls in particular, in Morris' book) are treated more as adults than as children, despite being children in terms of chronological age. Adultification means that young Black and Brown children are treated as if their mental or behavioural ages out-pace their chronological age, a perception structured by centuries of racist ideology. Adultification is particularly apparent in punishment contexts and is often accompanied by excessively paternalistic treatment, such as restrictions on students' agency and autonomy both within traditional school settings and via increasingly restrictive geographical settings, such as youth carceral institutions (Annamma, 2017; Lamboy, Taylor & Thompson, 2020). Attributions of excessively or pathologically adult behaviour are also evident in assessments of intellectually disabled young people's expressions of sexual attraction or sexual interest (Ferrante & Oak, 2020; Gill, 2015).

While Black and Brown youth are frequently ascribed pathological agency in general, they are also ascribed deficient agency through the particular mechanisms of special education diagnosis and labelling. The role of race in special education identification has been the subject of extensive research in education, and is a complex phenomenon promulgated by endemic racism in educational systems, geospatial politics and policies, and the persistent normalizing of whiteness at the centre of educational practice and design (Connor, et al., 2019; Cavendish, Artiles & Harry, 2014; Artiles, 2011). The diagnostic categorization and labelling of racial minority students in the areas of intellectual disability and other cognitive deficits increases their risk of being ascribed diminished or pathological agency, given that such educational categorization directly references reasoning and thinking capacity, as well as adaptive behaviour (American Psychiatric Association, 2017). As a consequence, disciplinary practices that correct for perceived agency pathology can appear consistent with the educationally beneficial projects of schooling, even as they reinforce structures of systemic racism and ableism.

In sum, teachers' tools for making sense of students are confounded by the fact that able-mindedness is centred as a culturally neutral value within conceptual (philosophical) frameworks of

paternalism. This means that the enforcement of able-minded norms within schooling contexts is both educationally harmful *and*, nevertheless, conceptually coherent with justified paternalism.

To further expand upon this point, let's consider that young people labelled with intellectual and developmental disabilities often engage in meaning-making and sense-making that are apt to be mistaken for failures or as a lack of epistemic agency. A story involving Owen, Kevin's son, is illustrative. Owen is a twenty-five-year-old man who loves to message his friends on a well-known social media platform. He is labelled on the autism spectrum with "moderate to severe" intellectual disabilities. He's also a great two-fingered typist, meticulous about his grammar and spelling, and often intensely social. His messages often focus on detailed descriptions related to his favorite topics, his desire to participate in social activities with his correspondents after "the virus is finished," and expressions of love and/or affection for his correspondents. As a writer, however, Owen has one particular stylistic quirk: every word must be capitalized. Owen's parents, Jane and Kevin, have tried sporadically for the last few years, since Owen graduated from school, to correct this habit, to no avail. Owen did not have this stylistic preference when he attended school. Yet, if he had, his parents believe it is likely that some of his teachers would have mirrored their own paternalistic stance: treating Owen's preference as a bad habit to be extinguished rather than as a potentially positive and valuable expression of epistemic agency.

Indeed, extensive research by disability studies in education (DSE) scholars shows that such coercive paternalism would have been likely. Educators often engage in educational practices that promote not cognitive capability in general but rather specific practices that promote cognitive normalcy, or ways of processing information and communicating considered normal or typical (Ashby, 2010; Hehir, 2002; Kliewer, Biklen & Petersen, 2015; Bagliei, et al., 2011). These researchers document how intellectually and developmentally disabled learners are subject to instruction that promotes the appearance of normalcy, even when this comes at the expense of students' academic growth. For example, Ashby (2010) explores how intellectually and developmentally disabled students are encouraged to continue copying writing or echoing speech even when these practices replace or impede forms of literacy learning or meaning-making to which the students could otherwise be exposed. In other words, while these practices do not themselves necessarily undermine learning – copying and repetition form an important part of literacy development for many students – the persistent emphasis on such practices for labelled children undermines their ability to develop epistemic agency.

Thus, while we accept that educators might have had good reason to paternalistically steer Owen toward writing habits that conform more closely to socially and culturally accepted practices, we also suggest that this example illustrates the educational limitations of justifying paternalism on the basis of adult norms of rationality and autonomy. Indeed, as Owen's uncle Jim recently pointed out upon noticing Owen's stylistic quirk, writing in this "alternative" style might enable Owen to more easily track and distinguish words while he is reading. For example, it might help Owen to have all the letters aligned starting at the same height, or something along those lines. Another possibility is that his preference for capital letters could be aesthetic in nature. These observations are speculative, though Owen's reading practices provide some (non-verbal) evidence to support them. For example, Owen seems to read out loud more easily and fluently from his own messages than from those of his correspondents who do not adhere to his idiosyncratic capitalization rule. In any case, the observation itself demonstrates how agency may be attributed in a way that defies expectations set by developmental normalcy. And insofar as students labelled with intellectual disability possess capacities that defy these expectations, this example illustrates the potentially harmful consequences of philosophical conceptions of paternalism that rely primarily or exclusively on able-minded norms of rationality and autonomous agency to justify the educational role of paternalism.

While Owen seems to have been able to resist sustained attempts to correct his "mistakes," affirming his own agency in the face of sustained external pressure, it is not difficult to imagine a different and darker outcome. Imagine a variation in which Owen's label as a less proficient writer/thinker/knower remains unquestioned or unchallenged by alternative perspectives (like that of

his uncle), which might accommodate the possibility that his writing reflects a striking form of intellectual creativity by adapting language and stylistic norms to his ability and literacy needs. In this case, a reliance on able-minded norms by educators (or parents) would have rendered Owen more childish – that is, less adult – than those whose writing more closely tracked the standard norms for prose writing. In this case, mainstream justifications of paternalism that would seem to support disciplinary schooling responses of correcting or attempting to correct such a literacy practice, while charitably interpreted as an expression of respect for a student's epistemic capabilities, could have undermined the development of a student's epistemic agency. Steering students towards competencies that conform to those attributed to and expected of able-minded adults is sometimes a form of paternalistic intervention with significant potential to undermine educational learning.

The examples of paternalistic educational practices we have described in this section illustrate how norms associated with adult capacities of rational and autonomous agency are prioritized in certain unjust and exclusionary educational practices. As such, these educational failures cannot reasonably be viewed as merely the product of outdated, pernicious cultural attitudes that can be criticized from the perspective of enlightened philosophical justifications. Instead, they reflect the same educational priorities as those prioritized by the philosophical conceptions of educational paternalism discussed earlier in this paper – that is, capacities of able-minded adult rationality and autonomy.

The assumption that able-minded, and therefore normatively superior, adult capacities provide a morally benign basis for determining the educational role of paternalism has complex and troubling implications for students labelled with intellectual disabilities. In some cases, this assumption works to position intellectually disabled people as epistemically incapable, and thus encourages underestimations of students' actual educational potential. In other cases, it may lead to attributions of excessive and pathological adult agency. In both cases, the effect is to deny educational opportunities for students to develop and exercise alternative expressions of agency. Without such opportunities to develop and exercise alternative expressions of agency, intellectually disabled learners may appear to require paternalistic intervention in the eyes of educators, even while such interventions further reinforce intellectually disabled people's political, social, and cultural exclusion.

Conceptual Limitations of Able-Mindedness: Responding to the Culture Objection

We have criticized justifications of educational paternalism that rely on able-minded norms of rationality and autonomous agency, arguing that these norms are overly restrictive because they exclude from educational consideration the worth of certain forms of epistemic agency that are in fact worth promoting paternalistically. We have discussed examples that show how able-minded conceptions of educational paternalism imply the need to discourage or extinguish worthwhile forms of agency that fail to conform to able-minded norms.

In this section, we anticipate and address one source of philosophical doubt that might arise about these arguments, namely that the philosophical conceptions of paternalism we criticize do not actually carry the implications we attribute to them. This objection asserts that the scope and content of educational ideals of rationality and autonomy are not determined by existing cultural norms and biases, and therefore do not actually imply the exclusion or marginalization of alternative or non-able-minded expressions of agency. As such, prioritizing norms of rationality and autonomous agency as justifications for educational paternalism need not imply the normative and educational superiority of prevailing cultural interpretations of those norms.

For example, it may seem fallacious to suggest that justifying paternalism on able-minded grounds implies denying the educational value of expressions of agency, such as those described in the example of Owen in the previous section. Perhaps that example merely illustrates the need to recognize Owen's

capacities as potential (albeit unusual) forms of rationality and autonomy, and to render judgments of the educational appropriateness of paternalism accordingly. Most defenders of paternalism toward children are careful to point out that paternalistic interventions cannot be adequately justified merely by appealing to prevailing cultural norms about what counts as an adequate expression of rational or autonomous agency. Indeed, philosophically sophisticated proponents of educational paternalism reject the idea that a justification of paternalism depends on prevailing understandings about the appropriate *content* of rationality and autonomous agency as desirable educational aims. Instead, they argue, justified educational paternalism requires educators to adopt a critical perspective about what counts as an expression of rational or autonomous agency in particular cases.

For example, Brighouse (2006) says, "The paternalistic role is complicated. We should not be guided by our own pre-existing views; rather, our views should be guided by our best judgments about the child and her interests … that will tend toward her long-term flourishing" (p. 43). The claim that educators should refrain from relying on "pre-existing views" of autonomy and rationality in justifying paternalistic interventions seems unassailable. Nevertheless, Brighouse's suggestion that paternalism be guided instead by judgments about children's interests and their flourishing fails to address concerns about the pernicious influence of able-mindedness. Ultimately, the "long-term general interests" Brighouse has in mind (ibid., p. 44) explicitly focus on able-minded capacities – that is, capacities of personal autonomy, economic participation, citizenship, and flourishing that require highly developed linguistic capacities and capacities for abstract thought. For example, children's interest in becoming autonomous depends on acquiring "basic methods of rational evaluation" (ibid., p. 19), as does their interest in becoming active participants in economic life rather than merely passive recipients of an education that prepares them for a predefined "slot" in the economy (ibid., p. 34). In turn, their interest in becoming active and equal citizens depends on complex abilities to reason in accordance with the "norm of reciprocity" that underpins democratic collective self-government (ibid., pp. 67–69). These norms represent capacities of autonomous agency and rationality as requiring "complex language-mediated capacities" (Donaldson & Kymlicka, 2016, p. 169), or capacities of "linguistic agency" (Steiner, 2013, p. 196). Insofar as the role of paternalism is determined by such an able-minded conception of children's interests, teachers' best judgments about children's flourishing will align with these interests. Correspondingly, educational success or failure will necessarily reflect and reinforce "pre-existing" able-minded norms of rationality and autonomous agency. In short, Brighouse's recommendation that educators evaluate paternalism's role with an eye on children's interests and flourishing leaves little room to interpret their interests and flourishing in ways that might diverge from the ideals of "normal adulthood" that render intellectually disabled students deficient in the ways we have described above.

We do not wish to deny that educational judgments of justifications for paternalism should rely on educators' best judgments of children's long-term interests and flourishing. Nor do we deny that capacities of autonomy and rationality are irrelevant to the education of students with intellectual disabilities. In practice, attentive and perceptive educators can and sometimes do, like Owen's uncle Jim, identify capacities of agency that diverge from and even defy able-minded norms and patterns. They may even view paternalistic measures as appropriate and effective means of promoting these capacities. The fact that able-minded norms form the basis of prevailing philosophical accounts of paternalism does nothing to foreclose this possibility. Nevertheless, the assumption that the capacities of able-minded adults are normatively superior for educational purposes does mean that such judgments cannot be *justified on paternalistic grounds*. As such, even if educators are admonished to subject their presuppositions about rationality and autonomy to critical reflection, and thus open these educational ideals to a certain degree of critical re-interpretation and revision as they apply to paternalism in different contexts, they remain a conceptually limited and limiting basis for justifying educational paternalism toward students with intellectual disabilities, and they inevitably reinforce harmful ableist and exclusionary policies and practices.

Toward an Inclusive Conception of Educational Paternalism

While we have focused in this paper on influential justifications of paternalism that reflect and reinforce able-minded norms, we also acknowledged earlier in the paper that educational paternalism might, at least in principle, play a valuable educational role in enabling and including students labelled with intellectual disability. Before concluding, we briefly consider the prospects of one such conception for addressing and overcoming the problem of able-mindedness we have identified in this paper.

The promising conception of educational paternalism we have in mind has been elaborated and defended recently by Ben-Porath. Although the notion of able-mindedness makes no appearance in her book *Tough Choices*, and despite the fact that intellectual disability is mentioned only briefly in passing, the book's central theory of "structured paternalism" raises a number of points worthy of further evaluation in considering how educational paternalism might be justified on non-ableist grounds. We briefly outline one of these points here.

Ben-Porath understands paternalism as providing children[8] with "structured choice sets" that enable young people to pursue their preferences in ways that are conducive to their wellbeing and also recognize their status as civic equals (2010). In this way, paternalism restricts choices by providing pedagogical scaffolding within which students' capabilities are identified and their choices pursued in a way that is open-ended and not necessarily tied to evaluative standards of adult capacities of autonomy and rational decision-making. As such, Ben-Porath claims that structured paternalism is grounded in a recognition of children's "actual cognitive processes of personal decision making" (ibid., p. 18), and simultaneously "should evade the use of adult perspectives and abilities as the social standard" (ibid., p. 87) for decisions about and evaluations of educational policy. The idea that paternalism should focus on recognizing and promoting students' actual capacities acknowledges that individual flourishing and civic equality need not depend on the expectation that such capacities will ultimately develop or evolve into capacities of able-minded rationality or autonomous agency.

Ben-Porath's alternative justification of paternalism explicitly rejects the normative superiority of adult capacities, and in that way avoids employing able-minded norms as explicit standards for forming and evaluating educational policy. However, it remains unclear to us whether her alternative proposal to orient paternalistic policies to a respectful acknowledgement of children's "actual cognitive processes of decision making" is sufficient to address concerns of able-mindedness. After all, as we have pointed out above, determinations of children's cognitive processes cannot be made directly but are themselves mediated by theoretical frameworks that often represent children's psychological development in terms of able-minded concepts such as mental age. As the example of Owen described earlier illustrates, cultural prejudices of able-mindedness are apt to play a distorting role in educators' and policy makers' determinations of what actual agency looks like in practice. A focus on actual capacities may imply the rejection of explicit prioritization of adult capacities as a normative educational ideal – but it does not in and of itself provide corrective or critical guidance for educators whose judgments may be and often are nevertheless powerfully shaped by able-minded biases that prevail in the wider culture.[9] Thus, while

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[8] Ben-Porath also defends structured paternalism towards adults, though we do not consider her arguments in this regard here.

[9] At one point, Ben-Porath (2010) writes: "If paternalism is to advance the twin aims of well-being for individuals and the expansion of opportunities that support civic equality, it must not be designed in a way that would discriminate against a particular group or be perceived as indicating incapacity" (p. 38). Nevertheless, it remains unclear whether or to what extent this restriction is meant to apply to students with intellectual disabilities. Although Ben-Porath has elsewhere addressed the educational interests of students in special education settings (2012), it is noteworthy that in her book-length treatment of structured paternalism she never addresses the question of how educational policies justified by theories of paternalism – either her own or those she criticizes – might discount the agency of students with intellectual disability labels. While we find this omission unfortunate,

we are inclined to support Ben-Porath's proposal to prioritize paternalism's focus on promoting children's actual capacities of agency, the critical analysis we have provided in this paper suggests that more is required. Specifically, justifications of paternalism require explicit and heightened attention to the role of able-mindedness in shaping perceptions of what kind of behaviour counts as an educationally worthwhile expression of students' agency.

Conclusion

We have shown that influential contemporary accounts of educational paternalism rely on a conceptually inadequate and practically deleterious set of assumptions about able-minded capacities and able-minded learners. These criticisms suggest the need for a new approach that avoids the theoretical inadequacies of and mitigates the practical harms that ensue from prevailing approaches. As long as able-minded assumptions remain unexamined in philosophical reflection at the intersection of educational aims and paternalism, both educational theory and practice are likely to suffer – and perpetuate unjust practices and policies of paternalism.

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we nevertheless think it likely that Ben-Porath would be able to offer insight into moving beyond able-mindedness in philosophical justifications of paternalism.

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About the Authors

Kevin McDonough (kevin.mcdonough@mcgill.ca) is Associate Professor of Philosophy of Education at McGill University. His current research on intellectual disability focuses on the moral, political, and epistemic dimensions of inclusive education for students with intellectual disability labels.

Ashley Taylor (ataylor1@colgate.edu) is Assistant Professor of Educational Studies at Colgate University. She specializes in philosophy of education, critical and feminist disability studies, and disability studies in education. Broadly, she writes about the intersections of dis/ability, race, and gender in constructing civic belonging and epistemic inclusion.