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ESSA, Low-Wage Migrants, and the Persistent Neoliberal Education Structure: A Critical Review

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Through discriminatory policies and neoliberal practices, public institutions have historically marginalized low-wage migrants on the basis of race, ethnicity, class, and English-language ability. Under the Trump administration and Republican-led Congress, anti-immigrant practices and rhetoric have intensified. This paper explores the impact of current educational policies as they exist in a structure dominated by anti-immigrant ideology. In a critical review of scholarly literature, this paper examines the Every Student Succeeds Act (ESSA) in the context of past legislation and the position of these groups within the structure of U.S. education. Our investigation acknowledges that the ESSA attempts to improve educational opportunities for low-wage migrants, but the policy's shift toward state and local control creates uncertainty for these students. Specifically, we conclude that policy implementation for migrant populations will remain ineffective without fundamental changes to the climate and organization of state and local systems.

Keywords: *low-wage migrants, educational policy, neoliberalism, immigration, Every Student Succeeds Act*

Exacerbated by the divisive rhetoric of the Trump administration, the current sociopolitical climate in the United States is predicated on sensational rhetoric and loaded discourse regarding many of the country's racial and ethnic minority groups (Quinn, Hopkins, & García Bedolla, 2017). Most notably, immigrants have become the prime target for a growing right-wing, populist movement seeking to deport or ban them from remaining in and/or entering the U.S (Lemke, 2017). As a result, immigration reform has become a central focus for conservative politicians seeking to implement discriminatory policies aimed at minimizing opportunities for low-wage migrants¹ (Nguyen & Kebede, 2017; Quinn, Hopkins, & García Bedolla, 2017).

Concerned with the potential implications for education from this growing political movement, we find it important to examine the sociopolitical position of low-wage migrants in the United States and explore its connections with current policies and reforms. Specifically, we: 1) identify relevant legislative, economic and educational policies that have structurally positioned low-wage migrants within society; 2) discuss the link between this position and its negative impact on the educational experiences for children from low-wage migrant families; and 3) explore the potential implications of the *Every Student Succeeds Act* (ESSA) within the context of history and the current sociopolitical climate. In addition, we conclude with policy recommendations that we think could help ameliorate the negative impact on low-wage migrant families and their children. To achieve these research aims, we used the following questions to guide our research:

- How have past legislative, economic, and educational policies led to the social, political, and economic position of low-wage migrant families?
- How do the social, political, and economic positions of low-wage migrant families shape their educational experiences?
- How might ESSA influence these experiences?

¹ Low-wage migrant is being used to include any refugee, asylees, labor migrant, low-wage immigrant or undocumented person, as it acknowledges their unique situations, but highlights similarities in experiences (i.e. work, education, discrimination etc.) once arrived in the United States. It is intended to exclude newcomers who immigrate with a higher socioeconomic status (i.e. professional migrants, diplomats, investors etc.).

The U.S., Education, and the History of the Low-Wage Migrant

The U.S. has maintained a trying relationship with foreign migration that has played out across economic and educational institutions. For the last two centuries, capitalist employers and the state have controlled the ebb and flow of migration through calculated policies and strategic practices, which have directly affected the livelihoods of those entering the country (Ali & Hartmann, 2015; Gerber, 2011). Dating back to the 1700s, migrant workers have come to fill a variety of labor roles in the economy's ever-evolving work force, bringing profound sociopolitical changes to businesses and public institutions (Gerber, 2011; Portes & Rumbaut, 2014). This dependence on migrant populations led to a sordid history of mistreatment, exploitation, and objectification, much of which was affirmed and maintained by the legal and educational systems of the U.S. government (Gerber, 2011; Kao, Vaquera & Goyette, 2013; Portes & Rumbaut, 2014; Ueda, 2007). In this section, we unpack the origin and lineage of U.S. immigration and the subsequent treatment of these populations in the context of legislative and educational policy.

The first European wave of labor migration to the U.S. took place between 1880 and 1930, as nearly 23 million people entered the country at the height of the Industrial Revolution (Portes & Rumbaut, 2014). This wave, according to Portes and Rumbaut (2014), "may be viewed as an adjustment of population to resources; that in its magnitude and the extent to which it adapted itself to purely economic needs has few parallels in history" (p. 13). This period greatly changed the landscape of the American workforce through its massive increase in uneducated and economically desperate laborers who sought financial stability in the U.S. (Portes & Rumbaut, 2014).

At the height of this wave, industrialists, nativists, and like-minded educational leaders sought to "integrate" migrants into a "hierarchically organized society" by "instilling them with middle-class attitudes, beliefs, and standards of behavior" (Apple, 2004, p. 74). To evaluate their performance and usher in a new era of rational reforms, schools began sorting these populations using formal tests of intelligence. As a result, educational institutions of the time became the main sites for assimilation, and curriculum and assessment emerged as the mechanism through which such sorting was carried out (Apple, 2004). Apple (2004) wrote:

In the context of the time, they no doubt believed that American society was more willing to deal with diversity in intelligence than diversity in ethnicity or race. But they undoubtedly felt secure in their belief that a 'real' community could be built through education, one with 'natural' leaders and 'natural' followers, and one in which people like 'us' could define what 'they' should be like." (p. 74)

Their efforts, however, failed to slow a growing nativist movement that sought to deport and ban immigrants from entering the country, as a political backlash emerged in the following decades.

As the industrialist period came to an end, the U.S. and its institutions sought to quell the nativist unrest by enacting anti-immigrant programs and policies (Gerber, 2011; Portes & Rumbaut, 2014). For instance, the 1924 National Origins Act halted mass migration to the U.S. for various non-White populations by implementing a quota system that limited emigration numbers by country (Gerber, 2011; Portes & Rumbaut, 2014). This act also saw the installation of literacy tests that ultimately disadvantaged migrants from non-English speaking countries and from lower socioeconomic classes with little access to education (Gerber, 2011; Portes & Rumbaut, 2014). This policy explicitly supported nativism by excluding migrants based on race and would, ultimately, become the legal precedent for solidifying racial divides (Portes & Rumbaut, 2014). The impact of this law can be seen today in the criminalization of Mexican migrants and the permanent "foreign" status of various Asian American groups (Lee, 2009; Lemke, 2017; Louie, 2012; Ngai, 1999).

Following the passage of the 1924 National Origins Act, nearly all immigration stopped as a result of the economic downturn of the Great Depression and the overt anti-immigrant actions of

the federal government (Portes & Rumbaut, 2014). In Texas, for instance, nearly 40% of the Mexican population was deported to Mexico, including individuals born in the United States (Portes & Rumbaut, 2014). These overtly racist actions endured until 1942 when farmers found themselves in need of manual laborers due to the worker shortages caused by World War II (Portes & Rumbaut, 2014). At that time, the federal government reversed its policy and reached an agreement with Mexico to bring in tens of thousands of workers (Portes & Rumbaut, 2014). Known as the Bracero Program, roughly 500,000 Mexicans legally entered the United States in the decade following in order to work on U.S. farm lands desperate for cheap, manual labor (Portes & Rumbaut, 2014).

After the mid-century stagnation in migration, the 1960s ushered in a period of postindustrial migration (Massey, 1999). Massey (1999) explained that the “postindustrial era brought people from densely settled countries at the earliest stages of industrialization into densely settled, economically mature, postindustrial societies” (p. 34). Along with the sophistication of global economies, the federal government also formulated a new policy to reopen the U.S. to migration in order to serve its growing economy (Massey, 1999). The 1965 Immigration and Nationality Act abolished the quotas established by the 1924 law and welcomed a new era of migrants from post-colonial countries in Latin America, the Caribbean, Asia, Africa, the Middle East, and Oceania (Ueda, 2007). This law also supported family reunification allowing U.S. citizens to sponsor family members to migrate to the United States. Unlike the previous waves of immigration, the U.S. economy sought a combination of both professional and low-wage migrants to satisfy the globalist capitalist infrastructure (Lee, 2009).

Education and Immigration

In the decades following the passage of the 1965 immigration laws, myriad legislative actions dictated the educational and societal experiences of children from low-wage migrant families. The Elementary and Secondary Education Act of 1965, for instance, identified migrants, alongside Native Americans and rural residents, in the efforts to guarantee primary and secondary education for children from low-income families (Spring, 2012). A few years later, Congress passed the 1968 Bilingual Education Act that recognized the importance of bilingual education for the nation’s growing Asian and Latino populations (Li, 2007). As a result, bilingual education was recognized as a mechanism for accessing curricular content and reducing the drop-out rate for learners of English as a New Language (ENL) (Li, 2007). Similarly, in 1974, both a Supreme Court ruling – *Lau v. Nichols* – and the passage of the Equal Educational Opportunity Act upheld the rights and protections of ENLs by making it illegal to discriminate against them on the basis of language proficiency (Spring, 2012).

In the following decade, President Jimmy Carter expanded U.S. immigration law by signing the Refugee Act of 1980, which admitted foreign refugees who experienced political or religious oppression in their home countries (Spring, 2012). Later that same year, Carter enhanced the protection of admitted refugees by signing the Refugee Education Assistance Act that supported educational access for refugee students (Spring, 2012). A couple years later, the Supreme Court extended educational protections to undocumented students through the *Plyler v. Doe* (1982) decision, which made it illegal for schools to deny access to or charge fees for educating undocumented students (Radoff, 2011). A decade later, President Clinton sought to improve the status of all migrant students by signing the Improving America’s Schools Act of 1994, which increased funding for bilingual programs and immigrant education while focusing on drop-out prevention (Spring, 2012). Conversely, President Clinton also signed into law the Illegal Immigration Reform and Immigrant Responsibility Act (1996), which prohibited states from offering financial aid to undocumented students wishing to attend institutions of higher education (Spring, 2012).

At the turn of the 21st century, mass education reform shook the educational landscape for all students in the United States. In 2001, George W. Bush signed into law No Child Left Behind (NCLB), which sought to improve the achievement gap for minority students by implementing accountability and standardized teaching practices (Au, 2007; Spring, 2012). The results of this reform were far from the law's original objective, as many minority students were labeled "deficient" and relegated to lower achievement tracks (Au, 2007, 2011). A few years later, President Barack Obama set forth two initiatives – The Common Core State Standards and Race to the Top – in order to provide local school districts with curricular goals and the funding to reach them (McGuinn, 2016; Spring, 2012). Although intended to lift persistently low-performing schools, these initiatives economically penalized such schools and weakened education for low-income minority students, many of whom were from low-wage migrant families (Spring, 2012).

Evident in the history of low-wage migrant populations in the U.S., social, economic, and political entities have determined the extent to which these individuals have the right to access the same rights of American citizens (Radoff, 2011). As a result of this sordid history, low-wage migrant families continue to struggle on the fringes of society and at the bottom of the economic system. Their position, as co-opted by historical policies, affects their access to and quality of education, rendering it more difficult to elevate their position. Amidst the current sociopolitical climate in the U.S. and a brand-new education law, the future position of these families is curious. In the following sections, we will examine the Every Student Succeeds Act (ESSA) against the backdrop of history and the current U.S. climate.

Education Today: The Every Student Succeeds Act

Under the Obama administration, education reform prompted considerable backlash and opposition from teachers' unions, Republicans, and fellow Democrats, as it expanded its own powers and failed to live up to party expectations (Egalite, Fusarelli & Fusarelli, 2017; McGuinn, 2016). When Obama took office in 2008, the expectation was that he would repeal NCLB and replace it with a more suitable program designed for local learning and innovation (McGuinn, 2016). To the surprise of many, he not only left NCLB unscathed, he expanded the federal government's role by implementing the Common Core and Race to the Top initiatives, which provided extra funding to states that adopted the standards and performed per the federal government's guidelines (Egalite et al., 2017; McGuinn, 2016).

According to President Obama, his strategy of declaring initiatives was not to expand the federal government's power but to sidestep a gridlocked, Republican-controlled Congress refusing to take up the issue of education (McGuinn, 2016). As the administration furthered government expansion, members of Congress began to take notice, and Republican Senator Lamar Alexander spearheaded a movement for educational reform in order to stop Obama's far-reaching policies (McGuinn, 2016). As a result, ESSA passed both the House and the Senate with bipartisan support in December of 2015 and took affect for the 2017-2018 school year (McGuinn, 2016). An explanation of this law follows, along with a discussion of its potential consequences for federal, state, and local governing bodies.

ESSA maintained many aspects of NCLB that were implemented under the Bush administration (Egalite et al., 2017; McGuinn, 2016). Most notably, the annual test provision that requires math and English Language Arts testing once a year, and once in high school, along with science at three different points, remained in place (McGuinn, 2016). In addition, states still are mandated to publicly disclose their test scores and separate the data by subgroups (e.g., special needs students, learners of English as a New Language (ENLs), racial groups and low-income students) for the purposes of evaluating which populations and schools require additional intervention (Egalite et al.,

2017; McGuinn, 2016). Under ESSA, states still are required to reach a 95% completion rate on all standardized tests but are given more leeway on which tests they will implement (McGuinn, 2016). Another measure upheld was the English proficiency standards, which required states to assess English levels of ENLs on an annual basis, as well as align these language standards with the math and ELA standards (Pompa & McHigh, 2016).

Departing from NCLB, many provisions in the ESSA are a direct result of the emphasis placed on transferring control of education to the state level (McGuinn, 2016; Pompa & McHigh, 2016). For instance, ESSA prohibited the Secretary of Education from pressuring states to implement any one form of curricular standards and lays out specific limitations on the office of the secretary (McGuinn, 2016). Under ESSA, the Department of Education also no longer can pressure states into adopting proscriptive measures in exchange for federal funds, nor can it dictate how best to turnaround low-performing schools (Egalite et al., 2017). In essence, ESSA provided individual states the ability and flexibility to create programs, direct funds, and develop interventions that address the needs of their local populations without having to pass on federal funds (Egalite et al., 2017).

In addition to the devolution of governance, the ESSA elevated English proficiency to be included in state accountability systems, giving greater importance and visibility to the needs of ENLs (Egalite et al., 2017; Pompa & McHigh, 2016). It also allowed and required states to set their own goals for this population, leaving the door open for direct, local intervention (Pompa & McHigh, 2016). ESSA also required states to set standardized entrance and exit criteria for students in ENL programs, which reinforces mobility and access for ENLs across state school districts (Pompa & McHigh, 2016). Lastly, under ESSA, the way ENL students are counted may change at the behest of the federal government (Pompa & McHigh, 2016). In the past, state counts were used to determine the population size, which ultimately determined federal funding. As a result of ESSA, the American Community Survey (ACS) – the ongoing survey carried out by the U.S. Census Bureau each year – may also be part of or completely replace the state count system (Pompa & McHigh, 2016). This could have severe repercussions on state funding if the numbers differ for any reason, as federal numbers would supersede state counts (Pompa & McHigh, 2016). For states with large populations of seasonal migrants, for instance, federal counts on the ACS may not account for such ebbs and flows across the school year, leaving districts without access to federal money for these students.

Although lasting effects of this policy remain to be seen, it is important to note that the extent to which immigrants and ENLs are included in the ESSA is unprecedented. For many ENL advocates, passage of this law is a victory for this population, yet other civil rights advocates are hesitant to celebrate since the future is not yet known (Egalite et al., 2017; Pompa & McHigh, 2016). The passage of this law could prove positive for low-wage migrants, but if we look to the past for any indication, we must proceed with caution and skepticism.

Discussion: The Future

With the passage and recent implementation of ESSA, many stakeholders are wondering how education for the most vulnerable students will change. We would like to believe this law will revolutionize the experiences and outcomes for low-wage migrants, but after examining the law and related literature, we are struggling to see any specific component that will guarantee the dismantling of the pre-existing structures that have worked to marginalize these groups for decades. To have a realistic discussion of the potential impact of ESSA on this population, we must examine the law in the context of institutional structures that have historically placed low-wage migrants at the bottom of the socioeconomic ladder. Specifically, we look at ESSA in conversation with the rational aspects

of the educational system (e.g., accountability practices, assessment, and uniform curricula) and the burden of rational choice (i.e., the perceived versus actual ability to access optimal educational placements, programs, or services) in order to gauge whether this law could affect profound change. Given the newness of this law, however, our review draws largely from literature published before ESSA took effect and may not reflect specific changes to state policies or procedures. To compensate for this shortfall, our review focuses on the fundamental elements of the law that have been shown to impact students from low-wage migrant families in the past.

The Constraints of a Rational System

System rationality has been a component of the American education structure since the early 1900s as a means of assimilating new migrant groups into a “hierarchically organized society” (Apple, 2004, p. 74). At the time, industrialists and educational leaders implemented measurement scales (e.g., IQ tests) that used the language of science and technology in order to assess the student population, but their efforts led to the creation of a system of controls that undermined the position of non-White, non-English speaking populations by relegating these pupils to lesser-valued, vocational tracks of learning (Apple, 2004). On the creation and continued use of these practices, Apple (2004) writes:

the language of science and technology held forth the promise of better control, giving educators a greater ease of prediction and manipulation. It would help us in our goal to get different students from point A to point B quickly and efficiently...thereby going a long way toward creating the categories and procedures that have maintained the abstract individual, the unconnected educator and student, to this day. (p. 75)

The rational system under NCLB amplified these ideals by designing a system of standardized tests, uniform curricula, and prescribed teaching approaches that led to the methodic labeling and sorting of students based on measurements of perceived ability (Au, 2007, 2011). For many of the nation’s minority groups, the NCLB era of heightened rationality translated into fewer educational opportunities, a narrower scope of learning, lower achievement outcomes, and fewer future earnings (Deming, Cohodes, Jennings & Jencks, 2016). For children from low-wage migrant families specifically, it nearly solidified their position at the lowest levels of educational opportunity.

ESSA’s continued reliance on such accountability measures is telling for students from low-wage migrant families. As it stands, uniform curricula and standardized testing exclude this population, as these practices often are designed from a certain ideological stance (Carnoy, 1989). Carnoy (1989) explains, “students from subordinate groups, especially marginalized groups, face a curriculum which demands a certain kind of learning. The method of teaching this curriculum assumes a desire to succeed on the school’s (and society’s) terms” (p. 21). The terms of contemporary curricular standards are derived from the values, beliefs, and knowledge associated with White, middle-class, English-dominant America. Students from immigrant families encountering such “subtractive schooling” (Valenzuela, 1999) often feel stripped of their respective cultures, ideologies and languages, and feel obligated to assimilate into the dominant culture. As a result, the absence of home culture in school environments has been linked with low academic performance, learner disengagement, and a higher probability of leaving the system (Lee, 2009; Lopez, 2002; Smith, 2006; Tadesse, 2014; Weis & Fine, 2005).

Today, ESSA prohibits the federal government from obligating states to adopt a specific accountability model, uniform curriculum, or specific set of teaching methods. Yet, states still are required to implement their own accountability systems using standardized tests and report results by specific subgroup (e. g. language proficiency, disability, race, and economic disadvantage) (Egalite et

al., 2017; McGuinn, 2016). If states decide to maintain a model of the existing system, it will be to the detriment of the low-wage migrant population; however, if states seek to create curricula and testing that include the unique educational and cultural needs of this population, pockets of lasting change could emerge. Moving forward, for ESSA to benefit the children from low-wage migrant families, states will have to mitigate the negative consequences of recent accountability practices, as well as navigate the sensational anti-immigrant rhetoric perpetuated by certain political leaders and media pundits. By shifting control back to individual states, ESSA has opened the door for inclusive testing practices, culturally-enriched curriculum, and school-specific interventions that could break the constraints inflicted by NCLB. Whether states intend to do so, however, remains to be seen.

The Illusion of “Rational Choice” for Low-Wage Migrants

As ESSA unfolds into practice, it is important to note its oversight in addressing the pervasive assumption that all actors in the system have the ability to make “rational choices” (Harvey, 2007). This ideology, a fundamental aspect of neoliberalism, contends that “all people [...] act in ways that maximize their own personal benefits” (Apple, 2005, p. 273) despite the realities of systemic inequality, disadvantage, and structural location. For states seeking to include low-wage migrant families in their standards and systems, it is important for them to understand that some families face barriers to making optimal choices for their kids. If states fail to do so, no legislative action will elevate this population to an acceptable level.

Given the new shift in control, state and local policymakers must come to realize the origins of rational choice in relation to how low-wage migrants are absorbed by U.S. society. Gans (2009) explained that placement and potential mobility within the system depends on people’s personal experiences, background, and knowledge. He wrote, “the amount of [...] mobility can vary tremendously, depending both on the backgrounds of the newcomers and the state of the economy when and where they arrive in the U.S.” (Gans, 2009, p. 1659). These factors of the migration process can directly impact an individual’s structural location in society post-movement, meaning it will dictate where the migrants live, where they will work, and how they will live (Gans, 2009). Generally speaking, the lack of employment and low wages paid to the individual can greatly impact the resources available to themselves and any family member, thus determining the location of their children’s schools (Dumbrill, 2008). As a result, many children from low-wage migrant families often attend over-burdened, persistently under-performing schools that are ill-equipped to meet their unique learning needs.

In designing new state curricula, procedures, and programs, education leaders should take into account the lack of leverage that low-wage migrant families have when interacting with their children’s education. Bourdieu (1996) explained:

The holders of a great volume of overall capital, such as proprietors, members of liberal professions, and professors are opposed, in the mass, to those who are most deprived of economic and cultural capital such as unskilled workers. (p. 14)

In essence, low-wage migrant parents enter the school system lacking the knowledge of the values and norms perpetuated by the U.S. education system, leaving them at a sufficient disadvantage to fulfill explicit and implicit expectations required by the school structure (e.g., participation, advocacy, and academic support) (Apple, 2004). Their counterparts, White, middle-class parents, on the other hand, have a superior advantage by knowing how the system works and acting on their kids’ behalf, leading to greater outcomes for those children (Lareau, 2011).

If states decide that improving educational opportunities and outcomes for children from low-wage migrant families is essential, the unique, yet fundamental needs of these families must be addressed. States are now in more control of how federal funds can be spent to reach performance

goals, as well as have the opportunity to innovate programs and initiatives that educate, inform, and assist parents as they manage their children's education. Under ESSA, these initiatives can be targeted to the needs of local communities, which could provide the impetus for more lasting improvements. With several states seeking to quell unrest over undocumented immigrants by supporting and enacting anti-immigrant policies (e.g., sanctuary city bans, provisions to public assistance eligibility, enhanced policing, etc.), however, the desire to implement such programs may be limited.

Conclusion: Education, Policy, and the Low-Wage Migrant

Educational institutions, as an arm of the state and global economy, have become a direct supplier of the world's low-wage workforce. For centuries, the U.S. has been a receiver of this labor but in recent decades also has sustained its own by denying its low-wage migrant populations access to substantive education. This process of reproduction and labor creation relies on the sorting and tracking of students inherent to the P-12 pipeline, as it readies students for the division of labor seen in today's global market (Apple, 2005; Carnoy, 1989). This sorting and tracking is maintained by the rational system of accountability and policymakers' reliance on measurement, testing, and rational choice. Although many reforms have taken effect in the United States, the children from low-wage migrant families continue to suffer.

As ESSA emerges as the new system of practice, education leaders and stakeholders must be prudent in their efforts to educate and serve low-wage migrant families. With the new law passing decision-making to the state level, local actors have more opportunity to have their voices heard. If this law is going to succeed for this population, fundamental shifts toward cultural inclusion and less-stringent standards need to be emphasized. Specifically, schools must become places of difference, multiple discourses, and myriad voices. Curricula should include literature and knowledge from other cultures, and teachers should celebrate a diverse classroom. In addition, more funding needs to be funneled to struggling schools that service the majority of this population. By doing so, we would be lifting those who deserve to be lifted and challenging the achievement gap. ESSA has opened the door to state control, but whether states prioritize this population is uncertain.

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