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## EDUCATIONAL LEGISLATION ON SPECIAL EDUCATION AND THE ROLE OF SCHOOL MANAGEMENT IN ITS APPLICABILITY

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Abstract: This work analyzes educational legislation aimed at special education audiences since the promulgation of the Statute of Persons with Disabilities - Law number: 13,146/2015. Initially, the history of people with disabilities at an educational level, the evolution of legislation on the subject and the role of the manager in these legislations and educational policies are explored. For the analysis of the legislation, the theoretical/ methodological reference used was the documentary analysis of the educational legislation of the states of São Paulo, Rio Grande do Sul, Amazonas, Goiás and Bahia, based on their State Education Plans. With this, the role of school management and the support it has to apply what the law requires is discussed.

**Keywords:** special education; educational legislation; school management

### INTRODUCTION

Brazil has not always recognized people with disabilities, especially in the educational sphere (Mazzotta, 2011). A large part of Brazilian education laws and guidelines were developed vertically, not observing the viability and applicability of the rules imposed by legislation. In a continental country like Brazil, educational development must embrace its entire process fairly and whenever possible, with the participation of the population with disabilities, as well as school managers (Bueno, 1999). Simply imposing educational inclusion through the enactment of new legislation will not necessarily mean that the law is actually applied.

Even with the lack of criteria used by government spheres during the last half of the previous century, the evolution of inclusion laws within Basic Education can be identified (Arruda and Dikson, 2018).

The first appearances of these legislations date back to the Federal Constitution of 1824,

which guaranteed the right to education for people with disabilities. In 1961, the first Law of Guidelines and Bases [LDB] – Law number: 4,024, included Exceptional Education. The law proposed that people with disabilities must integrate into the community and fit into the general education system, as far as possible.

In the 1971 LDB, only article 9 mentioned students with disabilities, saying that they must receive special treatment, but not specifying how, leaving the definition to the Education Councils of each state. As a result, the development of skills for this target audience has become more delayed and difficult.

The previous laws were revoked with the creation of the LDB in 1996. However, with changes in government and the desires of civil society, the laws changed their etymology and concepts, changing the current structure.

Making a brief survey, State Law number: 10,403 of 1971, promulgated by the governor of São Paulo, which in article 2, paragraph 4, says that people with disabilities are remembered as having disabilities, a pejorative and no longer common nomenclature, and only the State Education Council [CEE] is responsible. to develop standards for granting scholarships to this public, a recurrent action in the last century, as the public authorities tried to exempt themselves from this responsibility.

With regard to the technical development of teachers, it was only in 1994 that Ordinance 1793 of the Ministry of Education [MEC] stated that teachers must complement their qualifications to work with this particular public.

Even though this is a universal approach to the topic, there is a delay in what is said about the discussion of the topic of inclusion, since the first more specific debates only took place at the end of the last century, including the Convention on the Rights of the Child (1988), the Declaration on Education for All (1990) and, finally, the Declaration of Salamanca (1994), which included all children who did not have the same learning possibilities in its text, as well as that all children must learn together, even those who had the most difficulties. Despite these agreements, it was only in the current century, following the Convention on the Rights of Persons with Disabilities, carried out in 2006 by the United Nations [UN], that Brazil began to structure updated legislation aimed at people with disabilities.

Only in 2015 was the Brazilian Law for the Inclusion of Persons with Disabilities [LBI] or the Statute of Persons with Disabilities – Law number: 13.146/2015 which, in its chapter IV, addresses the right to education. Article 28 of the text lists the obligations of public authorities, including ensuring, creating, developing, implementing, encouraging, monitoring and evaluating whether the law is actually being applied; already in paragraph VI, it is mentioned that research on the development of new pedagogical methods and techniques must be carried out.

It is worth noting that none of the laws declare the deadline that educational environments would have to adapt, leading us to believe that the change must take place immediately, which makes an effective inclusion process impossible, as well as assuming that the changes were not developed so that the ultimate goal is to truly grow special education.

With less than a decade of the Statute of Persons with Disabilities in force, there have been advances within the school and management aspects, such as accessibility in educational environments and the mandatory interpreter, although they are far from ideal. As pointed out by the 2018 School Census, carried out by the National Institute and Educational Research Anísio Teixeira [INEP], only a third of Brazilian schools are accessible to at least some type of disability.

Knowing that the school must be

accessible, students must also be included in this educational process. Offering classes in Libras and textbooks in Braille, according to article IV of the LBI, access ramps and elevators, among other physical resources, mentioned in article XVI of the LBI, are some of the integrations that schools must provide. These distinctions were not present in laws from past decades, and were generated thanks to the evolution of laws and the fight for visibility. (Dupin et al. O. 2020).

It is up to civil society and law enforcement agents to monitor and demand adjustments in the face of problems encountered, such as inconsistencies between what is provided for in the Law and what is carried out within school management.

Given this scenario, the following question arises: what really is the responsibility of school management? This research aimed to observe the development and implementation of educational legislation on special education in the states after the promulgation of the 2015 Statute of Persons with Disabilities. To this end, the legislation, ordinances, decrees and educational guidelines of the states of São Paulo will be analyzed., Bahia, Rio Grande do Sul, Amazonas and Goiás, and whether the application of this legislation is manifested in conjunction with the management of schools in the respective regions.

### MATERIAL AND METHODS

The method used to carry out the research was document analysis. According to Holsti (1969), one of the usual situations in which document analysis is used occurs when the researcher has time and/or travel limitations, in this case, the information was collected mainly via digital means. To this end, the ordinances and decrees of the State Education Councils of the states of São Paulo, Bahia, Rio Grande do Sul, Amazonas and Goiás were analyzed after the promulgation of the Statute

of Persons with Disabilities (2015). The choice to work with the mentioned UFs was due to the GDP of each state in relation to its region, since, in my point of view, the search for information was easier.

The reasoning was drawn up based on public data, on the respective websites of the State Departments of Education and/or through online communication channels, that is, an official documentary analysis was used (Lüdke, 1986).

As legislation was used, the methodology chosen was content analysis, which, according to Krippendorff (1980), concerns the symbolic content of messages. Finally, Holsti meets what was proposed by Krippendorff and presents two types of unit of analysis, both of which were potentially used in the research.

Thus, both the registration unit, which shows the frequency in which words focused on special education appear in educational legislation, such as inclusion, people with disabilities, accessibility, inclusive classes, among others, and the context unit were evaluated, in which the word does not appear explicitly, but rather the context in which it is inserted, being an example of how management prepared to debate this topic in the different regions of Brazil.

Table 1 presents the list of national legislation used in the development of the research.

Year	National Legislations	
1961	Law guidelines and bases of national education. Law number:4.024	
1971	Law guidelines and bases of national education. Law number:5.692	
1996	Law guidelines and bases of national education. Law number:9.394	
2014	National Education Plan (PNE), Law number: 13.005	
2015	Brazilian Law for Persons with Disabilities, Law number:13.146	
1994	Decree number 1.793	
2008	Decree number 6.571	

Table 1. National legislation:

Source: original research data.

Table 2 presents the list of state legislation, observed according to each Federative Unit.

Year	State legislations	State
2015	State Education Plan 2015 – 2025 (goal 4) [SEDUC – SP]	SP
2021	São Paulo State Special Education Policy [SEDUC - SP]	SP
2021	Deliberation by the State Education Council of São Paulo [CEE – SP] number: 197	SP
2021	Decree, number: 66.053	SP
2015	State Education Plan 2015 – 2025 (goal 4) [CEEd – RS]	RS
2021	Opinion number: 004 [CEEd - RS]	RS
2022	Opinion number: 001 [CEEd - RS]	RS
2015	State Education Plan 2015 – 2025 (goal 4) [SEDUC – AM]	AM
2020	Special Education Booklet 2020	AM
2015	State Education Plan 2015 – 2025 (goals 11 and 12)	GO
2016	State Education Plan 2016 – 2026 (goal 4)	BA

Table 2: State Legislations

Source: original research data.

### **RESULTS AND DISCUSSION**

After data collection and analysis, it was observed that all Brazilian states surveyed, through the State Education Plans that were approved following the National Education Plan (PNE), Law number: 13.005/2014, developed goals focused on special education, as required by legal determinations of the LBI, for example.

Firstly, it is important to point out the difference between Law, Decree, Ordinance, Resolution, to facilitate Opinion and understanding whenever they are mentioned. The Law is drawn up by a competent public authority, following a specific procedure, and its purpose is to convey legal standards. The purpose of the Decree is to regulate an already existing law. The Ordinance is an administrative act drawn up by a public authority and contains instructions and recommendations for the application of the Law. In the case of the Opinion, it may be a statement by a Commission or Special

Rapporteur on a matter subject to its analysis, in this case, by a body competent to evaluate the matter (Brazil, 1988).

For an initial analysis nationally, we considered goal 4 of the National Education Plan, on special education, which aims

to universalize access to Basic Education and specialized educational services for the population aged four to seventeen with disabilities, pervasive developmental disorders and high skills or giftedness, preferably in the regular education network, with the guarantee of an special education system, multifunctional resource rooms, classes, schools or specialized services, public or affiliated (Brazil, 2014).

The analyzed states of São Paulo, Rio Grande do Sul, Amazonas and Bahia use the same description in their state plans. The state of Goiás, on the other hand, has target 11 in its PEE for Special Education.

In relation to the ease of access to information on the topic, data collection from São Paulo and Rio Grande do Sul were carried out in an easy way. In the states of Amazonas and Goiás, the data were not available in a simplified form, and in the state of Bahia, it was only possible to carry out the search by knowing about the State Education Plan. This difficulty in accessing data also affects the implementation of inclusion policies, as if the documents and guidelines are not more explicit and publicized, it makes it difficult for the school manager to take these guidelines as a basis.

### **SÃO PAULO STATE**

In the survey of the state of São Paulo, three documents were taken into consideration: "Special Education Policy of the State of São Paulo – 2021", Deliberation 197/2021 (Section II, article 9) and the State Education Plan 2015 – 2025 (goal 4). Furthermore, how special education and the role of school management are treated will be analyzed.

In the document "Special Education Policy of the State of São Paulo – 2021" the expression "school management" is not directly mentioned, it is only treated as the management model and how the state's public policies will facilitate the actions of managers.

One of the facilitators for the inclusion of students with disabilities was the creation of the Specialized Educational Service [AEE], a 2008 federal decree, which, according to the MEC, is a special education service that identifies, prepares and organizes pedagogical and accessibility resources. that eliminate barriers to students' full participation, considering their specific needs (MEC, 2008).

One of the observations made regarding the improvement in the provision of services to the target audience was carried out by the São Paulo State Education Department [SEDUC – SP], through the Information, Technology, Evidence and Enrollment Coordination [CITEM]. According to the survey, carried out from 2008 to 2020, an increase in the number of enrollments of special education students in public schools was observed, from 28,060 in 2008 to 62,587 in 2020, suggesting that more families had access to information regarding the service provided, due to the efficiency of the work of school management.

Concomitantly with the increase in enrollment in regular classes, there is a dropin student entering Classes Governed by a Specialist Teacher [CRPE], a body created in the 1950s by then president Juscelino Kubistchek de Oliveira with the aim of bringing together students with disabilities in the same environment., excluding them from interaction with other students. According to data from 2008, after the AEE came into force, there were 2837 students enrolled in CRPE in the State of São Paulo, compared to 113 in 2020 (SEDUC – SP, 2020).

The next and important steps to be taken, according to SEDUC goals, are in the Special Education Policy Guidelines [PEE], 2021. For school managers, these guidelines are relevant to guide the organization and effective action of the expected model. Among the actions proposed in the document, there is the promotion of the inclusion of all students, focusing on the pedagogical process of teaching and learning supported by trained professionals, with the aim of strengthening access, permanence and participation of children and young people in the environment school, as well as ensuring lifelong education, through articulation between areas such as health, social assistance, culture, school community and society itself (São Paulo, 2015).

Observing the State's institutional support, through transversality between different areas, it is clear that there is an evolution in the way of dealing and acting regarding the target audience of special education. Within the document, ten guidelines are proposed: Regular teaching; Completion of Basic Education; Transversality; Universal development for learning; Specialized educational service; Collaborative teaching; Assistive materials and technology; Inclusive culture; Inclusive school network; and Education and work (São Paulo, 2015).

Based on the Statute of Persons with Disabilities, Law number: 13.146/2015, everyone must have their rights guaranteed, and, within the scope of regular education, this means that everyone must study in common rooms, without any type of segregation, including with equity in the process, with adaptations in classes and assessments, if necessary. necessary.

One of the indications for developing inclusion more assertively is the use of Universal Design for Learning [UDA], a strategy that uses different means to interact

with different audiences, making teaching accessible and functional (Oliveira et. al., 2019). Furthermore, another proposal is for specialized teachers to articulate and collaborate with teachers in charge of common classes, assisting in strategies that seek the full development of the student, without segregation and with the support of specific materials developed according to the principles of DUA.

Another possibility is to expand the use of assistive technology, accessibility and pedagogical resources, which are only possible through the application of the law and financial support from managers and/or the State. In mid-2021, the then governor of the state of São Paulo, João Dória, following Decree number: 66,053, of September 29, 2021, launched the Accessible City program.

In its first article, which contains a brief summary of the program, it explains that ``Cidade Acessível`` aims to promote accessibility for people with disabilities to facilities and services open to the public or for public use.

In the 2nd article, the objectives of the law are described, and reinforce the full participation of the population with disabilities in urban, school and social life, as well as the need for accessibility of public spaces for this to occur.

In the 3rd article, actions are disclosed, including those to reduce barriers and impediments to the full social participation of this target audience.

Finally, article 4 explains the transfer of financial or material capital to municipalities that join the Program. However, it is clear that these resources will only be made available for the acquisition of adapted goods and equipment or assistive technology, or for carrying out works to adapt and make urban furniture accessible.

According to guideline 8 of the PEE, on inclusive culture at school, the qualified teacher will have a strong role and will encourage the development of a more special education in the school environment, so that the reception, without exceptions, is assertive (São Paulo, 2015). According to guideline 9 of the same document, which addresses the inclusive school network and following the same line of action as the previous one, students, family members, the school community, specialized bodies and civil society will act together in order for inclusion to be properly effective.

In short, just like regular education students, those in special education will have education focused on future job market offers, respecting the imposed specificity, but integrating them into society.

The Decision of the State Education Council of São Paulo [CEE – SP] number: 197/2021, provides for postgraduate courses (latu sensu), in addition to regulating, supervising and evaluating the respective institutions. It is an important advance, both for the school manager, since professionals who work with the target audience are expected to be prepared, and for the education professional himself.

### RIO GRANDE DO SUL STATE

In the state of Rio Grande do Sul, the base document for the research was the Collection of Laws, Decrees and Normative Acts of Federal and State Education, prepared in 2022 by the State Education Council [CEEd – RS].

In this document, special education is mentioned several times, however the expression school management is not mentioned. It can be seen, this way, how school management is neglected, since, in most cases, legislation is developed to solve a problem in a palliative way, as the school reality proposed by the document is not taking into consideration, the school management itself, school.

Furthermore, the document reviews all the national and state legislation already mentioned, where there is a greater incidence of the expression special education. Specifically, in state legislation, no specific laws and decrees were found on the subject, only ordinance number: 163/2021, which guides the curricular organization of Basic Education in the state.

Opinion number: 0004/2021 of CEEd – RS, citing the need for accessible libraries, is also found in the document. In this opinion, once again, we note the imposition of a library with accessible space for everyone, in addition to books, maps and trained professionals for this public, in accordance with the Political Pedagogical Project [PPP] and the School Regulations of each institution, supported by the AEE. As in other documents, no way of implementing this structure has been found, leaving it up to school management to carry it out.

Finally, a temporary committee on special education was created and opinion number: 001/2022, which establishes complementary standards for special education in the state. With this document, some propositions were defined, such as an special education system, school inclusion, accessibility, barriers, special education audience, assistive technology, school support professional and functional curriculum (CEEd - RS, 2022). Some of the proposals depend exclusively on the constant updating of the teaching staff, regarding current content and standards. Others depend on funding to adapt space and materials for students with disabilities. Others, finally, depend on the characterization of the audience and the appropriate curriculum.

An important topic covered in this opinion was the definition of what the roles of the Public Power would be in conjunction with the sponsors, listed below (CEEd – RS, 2022):

- a) carry out a survey of the target audience demand to be met;
- b) plan actions and establish policies consistent with serving the universe of children/students with disabilities, autism spectrum disorders and high abilities/ giftedness;
- c) provide access and permanence for children/students with disabilities, autism spectrum disorders and high abilities/ giftedness;
- d) guarantee a multidisciplinary support team for public and private institutions dedicated to special education;
- e) promote the training and qualification of teachers to work in special education.

In this case, with these guidelines explicitly stated, the school manager's work is made easier, as he knows exactly where the surveys will be carried out, how they will be carried out and how they will be applied in practice.

Another important topic raised in this opinion was the importance of AEE, which, as stated in the conclusion of the document, makes its offer mandatory, in a complementary or supplementary way, in the opposite shift, for students with disabilities, autism spectrum disorders and high ability/giftedness (CEEd – RS, 2022).

Therefore, it is noted that the State of Rio Grande do Sul views the target audience of special education with importance, not neglecting and proposing improvements and solutions for the applicability of public policies, in accordance with current federal and state legislation.

### **GOIÁS STATE**

Regarding the state of Goiás, we come across the State Education Plan (PEE – GO), Law number: 18,969/2015, in force between 2015 and 2025. In it, two goals are more specific to special education, in this case goals 11 and 12.

Goal 11 seeks to universalize, within ten years, access to Basic Education and

AEE for the population aged four to seventeen with disabilities, pervasive developmental disorders, high abilities/giftedness and other special needs, preferably in the regular network of teaching, with the guarantee of an special education system, multifunctional resource rooms, classes, schools or specialized public or partner services.

### Goal 12 promotes

intersectoral coordination between public bodies and policies in Education, Health, Social Assistance, Labor and Human Rights, in partnership with families, in order to guarantee the necessary referrals and assistance aimed at the continuity of school services, in education regular in its stages and modalities, for people with disabilities and global developmental disorders and high abilities/giftedness.

In the case of goal 11, as also described in the current LDB, the objective is to establish that the enrollment of students with disabilities must occur, preferably, in regular educational institutions and that the AEE is an adjacent resource. Furthermore, it addresses the training of teachers aimed at this audience and the adaptation of spaces. Goal 12, in a complementary way, brings a relevant proposal to promote integration between government bodies, so that families can have greater ease in accessing basic services.

In the case of the representative from the Central-West, in addition to the PEE, which is mandatory, no other legislation was found on the subject of Special Education other than the federal laws already in force.

### **AMAZONAS STATE**

The State researched in the Northern Region was Amazonas, using the Special Education Booklet, developed by the State Department of Education and Sports [SEDUC – AM] in 2020, as a reference.

The Amazonas special education booklet brings together all the necessary information, succinctly in its 14 pages, highlighting the main doubts and ways of dealing with the target audience.

As in the states previously researched, the legislation used is the same, including Federal Law number: 13,146/2015, also known as the Statute of Persons with Disabilities, the basis for all state and municipal legislation. Among the rules in the booklet, they show the obligations of school managers, such as enrollment in regular schools, the importance of AEE and multifunctional resource rooms.

For school managers, this booklet is extremely important, since all the information pertinent to the topic is directly described in this material, but, again, it is difficult to find how this support could come in the form of material or budget for the implementation of this type of service.

### **BAHIA STATE**

Finally, the last state researched is Bahia, in the Northeast region. In it, through the State Education Plan [PEE – BA], Law number: 13,559/2016, goal 4 of the plan will be analyzed, which is effective between 2016 and 2026, the last among the states surveyed to be developed.

Goal 4 proposes to universalize, by 2026, access to Basic Education and specialized educational assistance in regular education networks for the population aged four to seventeen with disabilities, global developmental disorders and high abilities, with the guarantee of an special education system, multifunctional resource rooms,

classes, schools or specialized services, public or affiliated (Bahia, 2016). The text of the document does not differ much from the goals of other States in relation to this target audience.

In addition to this goal, 18 strategies are mentioned to achieve this objective. Among them, strategies are exposed to improve the provision of specific technology for this audience, the fight against decriminalization, multifunctional resource rooms and AEE, combat the exclusion of people with disabilities in schools, specializing teachers, among other strategies (Bahia, 2016).

Like other PEE, the goal and strategies are well described by the organizers, and if the school manager has the support of the sponsors or higher public bodies, the special education public will be well supported.

## CONCLUSIONS OR FINAL CONSIDERATIONS

Within the research carried out, it can be assessed that two pieces of legislation from the past decade were extremely important for the evolution of special education: The National Education Plan [PNE], Federal Law number: 13,005/2014, specifically target 4; and the Statute of Persons with Disabilities, Federal Law number: 13,146/2015.

When observing educational legislation aimed at special education in Brazil, it is clear that, despite developments in recent decades, they still do not completely guide the school manager. In none of the legislation analyzed, the expression school management was used to show the manager how the rules must be applied, being mentioned only in which situations it was necessary to apply the laws.

One of the interesting points is the preparation of the PEE. In most cases there is standardization, including one or another specific part of the state, but everyone follows a coherent and organized line regarding the

goals and strategies to be achieved for the special education audience. However, again, even though it is well prepared, it comes up against issues of scope, since the PEE covers the entire state, without considering the specificities of each municipality, such as financial and physical needs, among others, making it difficult for more assertive action on the part of managers.

Complementing the difference between municipalities, there is also the difference between states and regions. Incentives and projects with allocation of funds for the public in question are easily found, mainly in the state of São Paulo, where the manager can, within his skills and local needs, adapt the school space.

It is very important that managers are aware of their duties in the position and that they support their superiors in improving the school environment, whether in the public or private sector, since legislation protects people with disabilities. Furthermore, it is part of the school manager's role, in partnership with educational bodies, to offer specialized training to teachers on an ongoing basis, to increase debate among students about the importance of diversity and respect for differences.

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