

The new regulatory framework for distance education in higher education: a possible hope for academic and educational excellence?¹

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ABSTRACT

The article investigates the growth of distance education provision in Brazilian higher education. The research problem arises from the following question: considering the two most recent educational legislations regulating Distance Education (DE) in higher education (2017 and 2025), is the State capable of containing the precarization of higher education through changes in educational legislation? The objective is to analyze the underlying dynamics of the new DE framework, especially with regard to the advances and setbacks related to the processes of flexibilization and privatization of higher education. This is a bibliographic and documentary study with a qualitative approach, whose documents were examined through the methodology of Content Analysis. The results indicate that the new legal framework for Distance Education (DE) maintains flexibilization and privatization as structuring elements of higher education provision in Brazil.

KEYWORDS: Distance Education. Higher Education. Regulation. Neoliberalism.

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*El nuevo marco normativo de la educación a distancia en la educación superior: ¿una esperanza posible para la excelencia académica y formativa?*⁶

RESUMEN

El artículo investiga el crecimiento de la oferta de educación a distancia en la educación superior brasileña. El problema de investigación surge de la siguiente cuestión: considerando las dos legislaciones educativas más recientes que regulan la Educación a Distancia (EaD) en la educación superior (2017 y 2025), ¿es el Estado capaz de contener la precarización de la formación superior mediante cambios en la legislación educativa? El objetivo es analizar las dinámicas subyacentes al nuevo marco de la EaD, especialmente en lo que se refiere a los avances y retrocesos relacionados con los procesos de flexibilización y privatización de la educación superior. Se trata de una investigación bibliográfica y documental, de enfoque cualitativo, cuyos documentos fueron examinados mediante la metodología del Análisis de Contenido. Los resultados indican que el nuevo marco legal de la Educación a Distancia (EaD) mantiene la flexibilización y la privatización como elementos estructurantes de la oferta de educación superior en Brasil.

PALABRAS CLAVE: Educación a Distancia. Educación Superior. Regulación. Neoliberalismo.

O novo marco normativo da educação à distância no ensino superior: uma esperança possível para a excelência acadêmica e formativa?

RESUMO

O artigo investiga o crescimento da oferta da educação a distância no ensino superior brasileiro. O problema de pesquisa decorre da seguinte questão: considerando as duas legislações educacionais mais recentes que regulam a Educação à Distância (EaD) na educação superior (2017 e 2025), o Estado é capaz de conter a precarização da formação superior

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por meio de mudanças na legislação educacional? Objetiva-se analisar as dinâmicas subjacentes ao novo marco da EaD, especialmente no que se refere aos avanços e retrocessos relacionados aos processos de flexibilização e privatização do ensino superior. Trata-se de uma pesquisa bibliográfica e documental, de abordagem qualitativa, cujos documentos foram examinados por meio da metodologia da Análise de Conteúdo. Os resultados indicam que o novo marco legal da Educação à Distância (EaD) mantém a flexibilização e a privatização como elementos estruturantes da oferta do ensino superior no Brasil.

PALAVRAS-CHAVE: Educação à Distância. Ensino Superior. Regulação. Neoliberalismo.

Introduction

The Higher Education Census data indicate that, in 2024, 51% of enrollments were concentrated in Distance Education (DE) programs (Brazil, 2025). This demonstrates a shift in Brazilian higher education, which, for the first time, recorded the surpassing of face-to-face education by distance learning. Furthermore, the provision of this modality occurs predominantly in private institutions, where the pursuit of profit prevails over human development. This text is based on the hypothesis that DE, when profit-oriented and grounded in the disintegration of the university as a locus of education and resistance, contributes to the precarization of education, as it transforms cultural objects into consumer goods, reinforces isolation and the impoverishment of experience (Patto, 2013), and sacrifices higher education in favor of profit in order to adhere “to the perverse logic of competition and precarization” (Fávero; Mikolaiczik, 2024, p. 1).

The changes in DE regulation reflect, to some extent, the emergence of State concern regarding a modality that seems to encounter no barriers to its expansion. Therefore, this text is guided by the following research question: considering the two most recent educational

legislations regulating DE in higher education (2017 and 2025), will the State be capable of containing the precarization of higher education through changes in educational legislation? The objective is to analyze the underlying dynamics of the new Distance Education regulatory framework in relation to the advances and setbacks regarding the flexibilization and privatization of higher education. The documents selected and examined through Content Analysis were Decrees No. 9,057 of May 25, 2017, and No. 12,456 of May 19, 2025, which regulate the provision of DE in higher education. For this purpose, the categories of analysis were established as: a) flexibilization; b) privatization.

The organization of the text consists of four sections. The first is dedicated to the introduction and the structural aspects of the research. The second presents theoretical reflections on the influence of neoliberalism on the transformation of the role of higher education and maps the situation of higher education in Brazil. The third section is devoted to Content Analysis and the critical examination of the selected legislation. Finally, the fourth section presents the final considerations regarding the topic addressed.

Neoliberalism and Education: The Case of Higher Education in Brazil

The university is a social institution. This means that it carries out and expresses, in a specific way, the society of which it is both part and product” (Marilena Chauí, 2001, p. 35)⁷.

The epigraph proves illuminating in indicating that any attempt to analyze the process of implementation and materialization of educational policy in Brazil must begin with a profound understanding of its materiality and concreteness. In this sense, as highlighted by Apple (2024), educational movements, their policies, forms of organization, structures, and curricula are determined by the material, economic, political, and cultural conditions of a historically situated society. Within this context, higher education must

⁷ Our translation.

be understood as a strategic element in the production of consensus and the maintenance of hegemonic projects (Apple, 2024).

Thus, in the Brazilian case, there is a direct relationship between the State, social structure, national project, and higher education. For Florestan Fernandes (2020), Anísio Teixeira (1989), and Saviani (2009), these conditions gave rise to a higher education system rooted in the very dialectical and contradictory dynamics of Brazilian society. Higher education, as a State apparatus, strongly reflects the interests of groups that appropriate State mechanisms to produce or reproduce a hegemony that mirrors a social class project. This process, as Saviani (2024) points out, is dialectical and conflictual; however, in Brazil, it has historically tended to reproduce elitism and conservatism, with only rare and occasional transformations.

Within higher education, according to Saviani (2024), two antagonistic conceptions emerge: a hegemonic one and a counter-hegemonic one. The hegemonic conceptions of higher education implemented by the Brazilian State are grounded in the defense of human capital, technicist training, productivist conceptions, and privatization. According to Saviani (2024), counter-hegemonic positions arise mainly from the mass movements of the 1970s and 1980s, which fought for democratization, social inclusion, civil liberties, equality, human rights, and the end of the military dictatorship.

Such movements mobilized reforms that led, among other achievements, to redemocratization and the establishment of the Democratic Rule of Law embodied in the Federal Constitution of 1988 (Brazil, 1988). Amid advances and setbacks, it is important to consider that neoliberal reforms in Brazil, beginning in the 1990s, on the one hand incorporated some of these agendas and, on the other, intensified elitism and conservatism (Freitas, 2018).

These pseudo-reforms incorporate certain demands of mass social movements while simultaneously maintaining State structures that preserve privileges and elitism articulated with the “freshness” of neoliberal innovations. This movement is paradoxical because, on the one

hand, democratic mass movements pressure the Brazilian State to implement policies for the expansion of and access to higher education; but, on the other hand, the State itself, in order to meet these social demands, implements a model of expansion and access concentrated in private, profit-oriented institutions.

By proposing structural reforms from a neoliberal political and economic perspective, the Brazilian State expands access to higher education through the growth of private for-profit institutions. However, extensive academic literature (Sguissardi, 2015; Bianchetti; Sguissardi, 2017; Santos, 2010; Laval, 2019; Saviani, 2009) provides strong evidence that this model of educational privatization deepens social and educational inequalities, dissolves the meaning of the university (teaching, research, and extension), alienates higher education from social problems, precarizes academic training, and reproduces a technicist educational model.

In the 1990s, neoliberal reforms were widely implemented in Brazil. These reforms enabled the expansion of low-cost private higher education for the State. Initially, this expansion was justified by the State's inability to democratize mass access to higher education, and later by the argument that private education would respond more efficiently, effectively, and appropriately to social "demands" and productive needs. According to Laval (2019), neoliberalism challenges State intervention in the production of goods and services. From this economic perspective, there is no reason why social (public) goods should remain outside market competitiveness. Such a view maintains that schools and universities, by adopting competition and managerial performance practices, can quantitatively improve their quality.

According to Fávero and Trevisol (2020), this neoliberal ideology has intensified a strategic relationship between Higher Education Institutions (HEIs) and students. In this relationship, students come to be regarded as clients/consumers, while HEIs begin to operate according to the demands and needs of their clientele. The implementation of the neoliberal model of governance encourages higher education institutions, whether public or

private, to adapt to the principles and management methods of private companies through mergers, public-private partnerships, or the incorporation of managerial practices considered efficient in the field of business administration (Lesnieski; Trevisol; Bechi, 2023).

The political scenario fostered the opening of colleges and university centers and practically halted the expansion or creation of new universities. This point is particularly relevant when we understand that the university is characterized by research (graduate studies), teaching, extension, innovation, and social engagement (Santos, 2010).

In 2024, Brazil recorded 2,561 institutions offering higher education. Figure 1 illustrates the distribution by type of administrative organization and administrative category:

Figure 1 — Number of institutions by academic organization and administrative category

Ano	Total	Universidade		Centro Universitário		Faculdade		IF e Cefet	
		Pública	Privada	Pública	Privada	Pública	Privada	Pública	Privada
2024	2.561	116	90	8	409	152	1.745	41	n.a.

Source: Higher Education Census 2024 (Brazil, 2025).

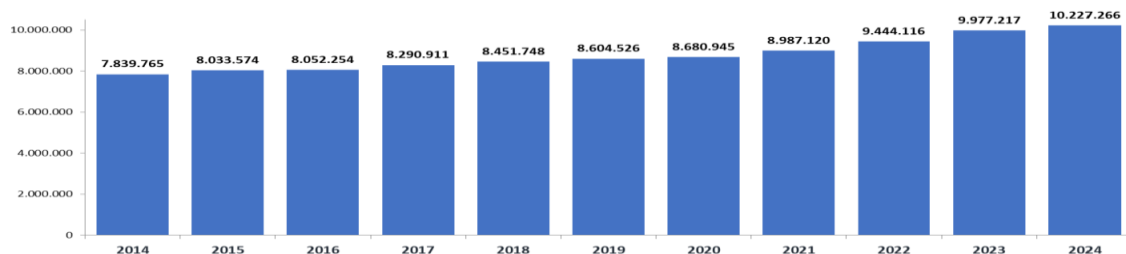
The classification of administrative categories was established by Decree No. 9,235 of December 2017 (Brazil, 2017), which defines the criteria for the accreditation and reaccreditation of Higher Education Institutions (HEIs). According to Schwartzman, Filho, and Coelho (2021), the typology of higher education in Brazil shares institutional autonomy as a common characteristic, although with distinct objectives and social functions. Universities, par excellence, must be committed to research, teaching, extension activities, career and salary plans, maintain at least one third of their faculty with master's and doctoral degrees, and obligatorily offer at least four master's programs and two doctoral programs. University centers are required to meet criteria such as having

one fifth of their faculty hired on a full-time basis, one third of their faculty holding master's or doctoral degrees, as well as offering at least eight undergraduate programs with satisfactory evaluations in the on-site assessment conducted by the National Institute for Educational Studies and Research Anísio Teixeira (Inep). Colleges, on the other hand, may specialize in only one field, meaning that they are not required to be multidisciplinary. In this sense, there are no requirements regarding *stricto sensu* graduate programs, the hiring of full-time professors, or even a minimum number of faculty members with doctoral degrees.

In 2024, Brazil reached a historic level of enrollments in higher education, recording approximately 10 million students, which represents an increase of about 2.5% compared to the previous year. This expansion has been largely driven by the private sector, which is responsible for approximately 80% of total enrollments. This sector also holds broad dominance in the provision of distance education courses, concentrating 95.9% of enrollments in this modality.

From a historical perspective, over the last 45 years, the Higher Education Census (Brazil, 2025) shows a continuous increase in enrollments, rising from 1,377,286 in 1980 to 10,227,266 in 2024, as presented in Figure 2.

Figure 2 – Number of Enrollments in Undergraduate Programs, 2014–2024



Source: Higher Education Census 2024 (Brazil, 2025).

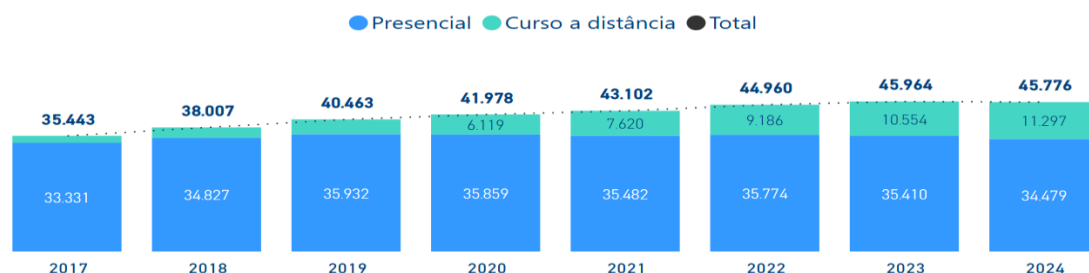
This condition is reinforced by Schwartzman, Filho, and Coelho (2021), who demonstrate that the student loan system (Fies), created in

1999, expanded enormously from 2011 onward. According to the authors, enrollments financed in the private sector increased from 5% to 39% between 2009 and 2015. However, with the reduction in public funding beginning in 2015, a large portion of private higher education institutions was forced to adopt distance education more intensively as a strategy to reduce operational costs (Schwartzman; Filho; Coelho, 2021).

This scenario points to a growing concentration of higher education within large private for-profit corporate groups. This diagnosis is confirmed by Schwartzman, Filho, and Coelho (2021), who present some evidence, namely: a) tuition fees in the private sector decreased by an average of 30% between 2012 and 2018; and b) the reduction in the presence or even the closure of small private colleges that have been losing students. According to the authors, in 2018 alone, 72 private institutions requested authorization from the National Education Council to cease their activities (Schwartzman; Filho; Coelho, 2021). This crisis does not, in itself, indicate a decline in the private provision of higher education, but rather further intensifies the concentration of the sector in the hands of a few business and corporate groups.

Following Decree No. 9,057 of May 25, 2017, the increase in distance education courses became even more significant, as illustrated in Figure 3.

Figure 3 — Evolution in the Number of Distance Undergraduate Programs – Brazil, 2017–2024

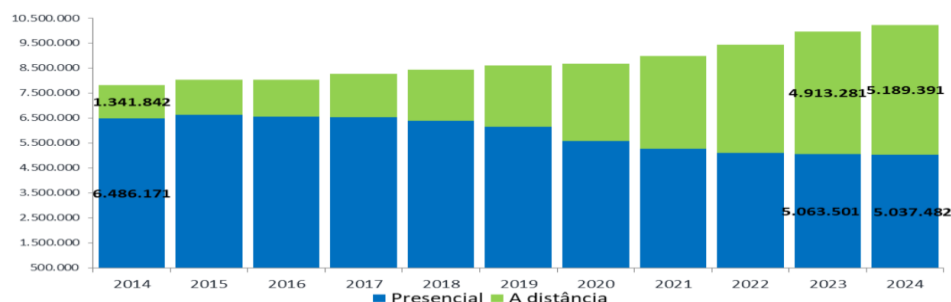


Source: Statistical Panel of the Higher Education Census 2024 (Brazil, 2025b).

The data show that, over the last five years, there has been a 232% increase in the number of new distance undergraduate programs offered and that, from 2022 to 2023 alone, the growth rate was 15%. Two factors converge to explain the expansion of distance education programs: on the one hand, there has been a reduction in public funding for private institutions (such as *fies*), and on the other hand, the crisis affecting private institutions offering face-to-face programs has generated pressure to regulate or modify the format of educational provision.

These two factors converge within the field of dispute surrounding the approval of Decree No. 9,057 of May 25, 2017, which both reassures the public sector—by maintaining its commitments to the expansion and democratization of access to higher education—and “ensures” the financial sustainability of private Higher Education Institutions (HEIs).

Figure 4 — Number of Enrollments by Mode of Delivery in 2024



Source: Higher Education Census 2024 (Brazil, 2025).

The year 2024 quantitatively marks the surpassing of face-to-face education by Distance Education (EaD). This trend is particularly characteristic of private Higher Education Institutions (HEIs), since enrollments in public HEIs have remained stable, with a slight decline of 0.3% in 2023. Supporting this observation is the fact that 79.8% of enrollments are concentrated in the private sector. Of these, 78% are in private for-profit HEIs and 22% in private non-profit HEIs.

Regarding admissions, in the private sector, 27% occur in face-to-face programs and 73% in distance education programs. In contrast, in the public sector, 84.40% of students enter through face-to-face programs and 15.60% through distance education programs. Concerning enrollments in distance education, 86% of students enrolled in EaD attend programs at for-profit institutions, 10% attend programs at non-profit HEIs, while only 4% of EaD enrollments are in public HEIs (Brazil, 2025).

As discussed by Trevisol, Fávero, and Mikolaiczik (2025), these data materialize a trend toward the reduction of programs with higher operational costs, the expansion of mass enrollments, the precarization of teaching work through the hiring of adjunct faculty paid by the hour, the dismissal of faculty with doctoral degrees, the erosion of academic career plans, an increase in the number of students per professor, the reduction of components considered unnecessary for professional training, platformization, the replacement of professors by tutors, and increased investment in marketing.

Eight years after Decree No. 9,057 of May 25, 2017, the provision of distance education has accumulated criticism and a series of indications of its failure as a national higher education project, especially with regard to completion rates. Dropout rates are substantially high, reaching 66% in EaD programs offered by private for-profit institutions and 70% in EaD programs in public HEIs (Brazil, 2025b). This high dropout rate directly compromises course completion indicators.

Such conditions fostered fertile ground for the new legal framework for distance education, published in May 2025. Although distance education may contribute to the democratization of access in specific regions, it is necessary to recognize its limitations regarding educational quality. Replacing an education guided by the formation of critical and participatory subjects with an education centered on “targets,” “indicators,” “results,” and “efficiency” sustains and fuels the voracity with which the market attacks public education.

Indicators of the New Legal Framework for Distance Education in Higher Education

The objective of this section is, through Content Analysis of the educational legislation regulating distance education (EaD) in higher education, to understand how the State acts, or fails to act, in the flexibilization and privatization of these programs. Methodologically, this is a documentary research study with a qualitative approach. Even considering that the growth of distance education had already been observed since its regulation by the Law of Guidelines and Bases of National Education (LDB), Law No. 9,394 of 1996, this growth became even more significant after 2017, as demonstrated by Scudeler and Tassoni (2023). For this reason, the two most significant recent educational legislations regarding the regulation of distance education were selected: Decrees No. 9,057 of May 25, 2017, and No. 12,456 of May 19, 2025. The aim was to answer the following question: considering the two most recent educational legislations regulating distance education in higher education (2017 and 2025), are there advances, continuities, or ruptures?

Content Analysis (Bardin, 1977) was carried out through the procedure known as box analysis, in which the texts were read in full, subsequently excerpted and organized into tables, and then analyzed according to categories defined a priori, namely: a) Flexibilization — how does educational legislation mobilize flexibilization (a key allegory in neoliberal thought) in higher education through distance education? b) Privatization — how does educational legislation favor the process of privatization of higher education through distance education?

Decree No. 9,057 of May 2017 regulates the provision of national education in the distance learning modality and revokes Decree No. 5,622 of December 2005. After reading the text, some excerpts that evidenced the categories of flexibilization and privatization were selected and organized in Table 1.

Table 1 — Content Analysis of Decree No. 9,057 of May 25, 2017

Excerpt No.	Selected excerpt: the highlighted sections correspond to the categories of flexibilization and privatization
1	Art. 1. For the purposes of this Decree, distance education is considered the educational modality in which didactic-pedagogical mediation in the teaching and learning processes occurs through the use of information and communication technologies and media, with qualified personnel, access policies, compatible monitoring and assessment, among other elements, and develops educational activities carried out by students and education professionals who are in different places and times.
2	Art. 4. Face-to-face activities, such as tutoring sessions, assessments, internships, professional and laboratory practices, and thesis or final paper defenses, as provided for in the pedagogical projects or institutional and course development plans, shall be carried out at the headquarters of the educational institution, at distance education support centers, or in professional environments, in accordance with the National Curriculum Guidelines.
3	Art. 11. Private higher education institutions shall apply to the Ministry of Education for accreditation to offer higher education programs in the distance learning modality. § 1. The accreditation referred to in the caput shall consider, for purposes of evaluation, regulation, and supervision as established by Law No. 10,861 of April 14, 2004, the headquarters of the educational institution together with the addresses of the distance education support centers, when provided for in the Institutional Development Plan and in the Course Pedagogical Project.
4	Art. 13. The processes of institutional accreditation and reaccreditation, authorization, recognition, and renewal of recognition of higher education programs in the distance learning modality shall be subject to on-site evaluation at the headquarters of the educational institution, with the objective of verifying the existence and adequacy of methodology, physical and technological infrastructure, and personnel necessary for carrying out the activities provided for in the Institutional Development Plan and in the Course Pedagogical Project. Sole Paragraph. The processes referred to in the caput shall observe, where applicable, the procedural regulations applicable to higher education regulatory processes in general, pursuant to specific legislation and the regulations issued by the Ministry of Education.
5	Art. 15. Lato sensu postgraduate programs offered in the distance learning modality may conduct face-to-face activities in locations other than the headquarters or the distance education support centers.
6	Art. 16. The establishment of a distance education support center, under the responsibility of an educational institution accredited to offer programs in this modality, shall be conditioned upon compliance with the parameters defined by the Ministry of Education, in accordance with the results of the institutional evaluation.
7	Art. 18. The offering of stricto sensu postgraduate programs in the distance learning modality shall be conditional upon the recommendation of the Coordination for the Improvement of Higher Education Personnel (Capes), in compliance with the guidelines and opinions of the National Education Council.
8	Art. 19. The offering of higher education programs in the distance learning modality shall allow partnership arrangements between the educational institution accredited for distance education and other legal entities, preferably within the facilities of the educational institution, exclusively for the operation of distance education support centers, in the manner to be established by regulation

	and respecting the limit of student service capacity.
9	Art. 20. The competent bodies of the education systems may, with due justification, carry out monitoring, evaluation, and supervision actions regarding programs, support centers, or educational institutions, in compliance with current legislation and respecting the principles of adversarial proceedings and full defense rights.
10	Art. 22. Accreditation acts granted to higher education institutions for the exclusive offering of lato sensu postgraduate programs in the distance learning modality shall also be considered valid for the offering of undergraduate programs in this modality, without the need for new accreditation or amendment procedures.

Source: prepared by the authors (2025).

In 2017, the year in which the aforementioned decree was published, Brazil was experiencing a broad reformist period driven by the government of Michel Temer following the 2016 parliamentary, corporate, and media coup (Uczak; Bernardi; Rossi, 2020). The arbitrary restructuring of the National Education Forum, followed by the publication of the complete text of the National Common Curricular Base (Brasil, 2018), which endorsed the High School Reform, were indications of adherence to market-oriented values. In the case of Distance Education (EaD), the scenario was no different: the legislation deepened a movement that was already underway — the removal of legal barriers for the provision of an extremely profitable educational modality.

Already in the first article of the Decree, the suppression of the word “teacher,” which had been present in the 2005 decree, is noteworthy. Was such a choice intentional? Transforming the teacher into a tutor (Dardot; Laval, 2016) is yet another strategy that frames the academic professional as an entrepreneur of the self, responsible for their own success and/or blamed for their failure in the course. The choice of terminology is not neutral; it indicates a possible weakening of the profession, since they are no longer teachers, but other professionals, often overworked and underpaid, who receive grants or salaries far lower than those of teachers working in face-to-face education.

In-person activities cease to be mandatory and become regulated by the specific guidelines of each course, which intensifies flexibilization and

privatization, since, without face-to-face activities, offering Distance Education becomes much cheaper, as a single learning center can serve thousands of students. The Decree mentions tutorials, assessments, internships, professional and laboratory practices, and thesis defenses, but does not specify that they are mandatory. The absence of a limit on the number of students per class reaffirms the lowering of barriers to the modality: how is it possible to monitor a class that may exceed one thousand students? In the case of teacher education programs, will it be possible to supervise internships when the student-teacher intervenes in the school environment?

The validity period of accreditation is another element omitted from the text, as presented in excerpt no. 4. Attention is also drawn to the regulation permitting the opening of learning centers through partnerships with legal entities, preferably linked to education. Assessments will be carried out with justification and in a manner that respects the limits of adversarial proceedings, as stated in excerpt no. 9. What could be considered contradictory when discussing Distance Education? Could precarization be understood as a criterion to be respected? In the implementation of the legislation, such limits operate as loopholes for multiple interpretations.

The provision set forth in excerpt no. 10 is also alarming, as it establishes that an institution accredited to offer *lato sensu* specialization courses may also offer undergraduate programs without requiring new accreditation. This places two completely distinct stages of higher education on an equal footing, despite undergraduate programs demanding significantly different durations and resources compared to *lato sensu* specialization courses, beginning with workload and curricular organization.

It is relevant to consider that, one month after the publication of this Decree, the Ministry of Education issued Normative Ordinance No. 11, which linked the opening of learning centers to institutional evaluation scores. In other words, higher education institutions (HEIs) rated with score 3 were authorized to open up to 50 learning centers per year; institutions

rated with score 4 could open 150 centers per year; and institutions rated with score 5 could open 250 centers per year.

After analyzing the administrative documents of the five largest educational conglomerates in Brazil, Scudeler and Tassoni (2023) concluded that the 2017 Decree was a response to pressure from education entrepreneurs who, after significant cuts in the transfer of resources from FIES, needed alternatives to maintain institutional profits, “[...] especially for private HEIs with shares traded on the stock exchange, susceptible to economic pressure for positive operational results and substantial dividend distributions” (Scudeler; Tassoni, 2023, p. 13). Therefore, more flexible rules for Distance Education became the solution for expanding the number of learning centers and enrollments. Scudeler and Tassoni (2023) argue that the Distance Education market grew through the charging of tuition fees much lower than those of face-to-face education. Its target audience consists of individuals who cannot afford traditional higher education, but who also do not meet the income criteria of the University for All Program (Prouni).

The Decree is brief (only four pages), generic, and abstract, while leaving several issues unresolved, such as accreditation criteria, duration, and the structural axes of curricular organization, among others. A scenario that was already concerning becomes even more precarious with State authorization. In this way, the devaluation of academic degrees materializes through the adjustment of the educational market to the economic system (Bourdieu; Boltanski, 2015).

With the removal of obstacles limiting the number of students per class, Distance Education (EaD) became consolidated as one of the most profitable segments of the educational sector in Brazil. The provision of standardized educational services, often driven by processes of mergers and acquisitions, demonstrates a global phenomenon: edu-business (Ball, 2022).

Decree No. 12.456, of May 19, 2025 (Brasil, 2025c), regulates the provision of national education through the distance learning modality and revokes Decree No. 9.057 of May 25, 2017. After reading the text, some excerpts were selected and organized in Table 2. In some passages, adherence to the categories of privatization and flexibilization was identified, while other excerpts were included in order to establish a comparison between the 2017 and the 2025 legislation.

Table 2: Content Analysis of Decree No. 12.456 of May 19, 2025

Excerpt No.	Selected excerpt: the highlighted sections correspond to the categories of flexibilization and privatization.
1	Art. 1. This Decree regulates the provision of distance education by Higher Education Institutions in undergraduate programs.
2	Art. 2. The provision of distance education in undergraduate programs shall observe the following principles: I - promotion of access to quality higher education; II - development of diverse and plural teaching and learning processes and educational materials; III - guarantee of the right to access, permanence, and learning, ensuring standards of quality and academic excellence for higher education students, regardless of the mode of course delivery; IV - promotion of interaction between students and education professionals; V - development of diverse skills and competencies through the use of information and communication technologies; VI - full development of the student for the exercise of citizenship and professional qualification; VII - appreciation of the teaching profession; VIII - appreciation of the distance education learning center of Higher Education Institutions as a space for interaction and the promotion of institutional, course, and student identity; and IX - recognition of the commitment and social responsibility of public and private Higher Education Institutions.
3	Art. 3. For the purposes of this Decree, the following definitions apply: I - distance education: a synchronous or asynchronous teaching and learning process carried out through the use of information and communication technologies, in which the student and the teacher or another person responsible for the educational activity are in different places or at different times; II - in-person activity: an educational activity carried out with the participation of the student and the teacher or another person responsible for the educational activity in the same place and at the same time; III - synchronous activity: a distance education activity conducted through audio and video resources, in which the student and the teacher or another person responsible for the educational activity are in different places but at the same time; IV - mediated synchronous activity: a synchronous activity conducted with the

	participation of a group of no more than seventy students per teacher or pedagogical mediator, with student attendance control; V - asynchronous activity: a distance education activity in which the student and the teacher or another person responsible for the educational activity are in different places and at different times.
4	Art. 4. Undergraduate programs shall be organized according to the following delivery formats: I - on-campus program; II - hybrid program; and III - distance learning program. § 5. The use of the terminology provided in the caput is mandatory to identify the delivery format of undergraduate programs in educational contracts, regulations, internal normative acts, and on course pages published on the websites of Higher Education Institutions.
5	Art. 5. On-campus, hybrid, and distance undergraduate programs shall have the same duration and the same time frame for completion of the required coursework, in accordance with the National Curriculum Guidelines.
6	Art. 6. Higher Education Institutions shall monitor student attendance in in-person and mediated synchronous activities for approval in each curricular unit of the program.
7	Art. 8. Undergraduate programs in Law, Medicine, Nursing, Dentistry, and Psychology shall be offered exclusively in the on-campus format.
8	Art. 13. Accreditation for the offering of undergraduate programs in the delivery formats referred to in Art. 4 shall be carried out through a single regulatory process. § 4. In the accreditation process referred to in the caput, the headquarters of the Higher Education Institution and the Distance Education Learning Centers (EaD Centers) shall be considered for evaluation and regulation purposes, and these may be assessed by sampling, taking into account the specificities of the programs offered.
9	Art. 18. The teaching staff may be composed of the following categories: I - course coordinator; II - lead professor; and III - content professor. § 1. The duties and academic qualifications of the teaching staff shall be established by an act of the Minister of State for Education, in accordance with the quality standards for undergraduate programs offered through distance education. § 2. The teaching staff shall necessarily include lead professors and at least one course coordinator for each program offered. § 3. Each curricular unit offered partially or fully through distance education shall have at least one lead professor. § 4. The duties of the content professor may be assumed by the lead professor, provided that the full performance of all required functions is ensured and that this does not compromise the quality of the teaching and learning process.
10	Art. 19. The teaching staff may be assisted by pedagogical mediators, with compatible academic qualifications, who shall perform educational mediation activities in teaching and learning processes.

	Sole Paragraph. The duties and academic qualifications of pedagogical mediators shall be established by an act of the Minister of State for Education, in accordance with the quality standards for undergraduate programs offered through distance education.
11	Art. 21. The teaching staff may be assisted by tutors with administrative responsibilities, distinct from pedagogical mediation functions.
12	Art. 23. Higher Education Institutions shall apply in-person learning assessments at their headquarters, off-campus campuses, and Distance Education Learning Centers (EaD Centers), in all curricular units offered partially or fully through distance education. III - include elements that encourage the development of discursive skills of analysis and synthesis, accounting for at least one-third (1/3) of the weight of the assessment.
13	Art. 26. The digital platforms used in distance education shall facilitate the processes of communication, teaching, learning, and assessment, and ensure pedagogical interaction among students, professors, and pedagogical mediators, as well as access to educational content and the management of academic activities.
14	Art. 27. The headquarters of the Higher Education Institution, regardless of the delivery format of its programs, shall provide, at a minimum, the following infrastructure: I - reception area; II - academic registry office; III - rooms for professors and coordinators; IV - space for the activities of the Internal Evaluation Committee, referred to in Law No. 10.861 of April 14, 2004, and other collegiate, academic, and administrative bodies necessary for the full operation of the Higher Education Institution; V - laboratories and other educational spaces compatible with the in-person practical activities of the programs offered; VI - rooms or environments for individual and collective study, with access to physical or virtual bibliographic collections compatible with the activities of the programs offered and the number of students expected to use them; and VII - equipment and devices with internet access and a stable, high-speed internet connection compatible with the number of users. § 1. The sharing of headquarters facilities with another Higher Education Institution is prohibited.
15	§ 3. For the purposes of § 1, the Distance Education Learning Center (EaD Center) shall have a designated person, trained by the Higher Education Institution, to support students in educational functionalities and academic routines, such as the administration of in-person learning assessments, as well as in the coordination and consolidation of partnerships related to practical training fields in professional environments, internships, and extension activities.
16	The offering of hybrid and distance undergraduate programs may be supported through partnerships between duly accredited Higher Education Institutions and other legal entities for the implementation of Distance Education Learning Centers (EaD Centers), subject to the limit of student service capacity.
17	Art. 41. Accredited Higher Education Institutions and authorized programs shall

fully comply with the provisions of this Decree and the act of the Minister of State regulating it within two years, counted from the date of publication of this Decree.

Source: prepared by the authors (2025).

The New Regulatory Framework for Distance Education (EaD) was celebrated by teaching professional organizations, as it significantly alters the organization of this modality in higher education. The changes in the legislation indicate a governmental concern (under the administration of Luiz Inácio Lula da Silva, 2023–2026) with the expansion and organization of EaD, which was drastically precarized after the 2017 decree. The deadline for its implementation is two years; therefore, its impacts are not yet subject to analysis.

The most recent comprehensive legislation regarding EaD was published in 2017, which opened several gaps for privatization and flexibilization. The 2025 Decree presents positive changes in relation to the previous regulation, among which the following are worth highlighting: a) excerpt No. 2: the mention of academic excellence, education for citizenship, and the social commitment of public and private HEIs as guiding principles of EaD; b) excerpt No. 4: the organization of modalities into on-campus, hybrid, and distance learning, in which in-person presence is mandatory in all of them; c) excerpt No. 5: the guarantee of the same completion time for all modalities, considering that EaD offers degrees in record time; d) excerpt No. 6: for the first time, there is mention of attendance control in mediated synchronous activities; e) excerpt No. 8: the prohibition of EaD in health-related courses and teacher education programs; f) excerpt No. 13: inclusion of discursive elements as a mandatory part of assessments at the end of each unit; g) excerpt No. 14: platforms that effectively ensure pedagogical interaction; h) excerpt No. 15: the prohibition of sharing headquarters and learning centers.

The prohibition of fully distance teacher education programs, combined with clearer criteria for provision and the valorization of writing practices as part of the assessment process, may contribute to a shift in the context of precarization. However, the new legislation maintains or introduces gaps that continue to foster privatization and flexibilization, which deserve attention: a) excerpt No. 2: the term “education professionals” is still used instead of “teachers”—what is the intention behind this terminology?; b) excerpt No. 2: the development of skills and competencies remains one of the guiding principles of the programs, a discourse already aligned with an instrumental logic of education; c) excerpt No. 3: by stating that activities may be supervised by professors or another person responsible for the educational activity, it becomes evident that the role of the teacher may once again be diminished; d) excerpt No. 3: the limit of seventy students per teacher or pedagogical mediator in mediated synchronous activities raises several questions, such as how it is possible to effectively monitor the learning of 70 students, especially since there is no guarantee that a professor will perform this role in mediated synchronous activities; e) excerpt No. 8: sample-based evaluation of EaD centers may allow for the existence of precarious facilities to go unnoticed; f) excerpt No. 9: the ambiguity created by the introduction of roles such as lead professor and content professor, whose duties will be defined in later legislation; g) excerpt No. 10: the figure of the pedagogical mediator, who in practice may replace the professor in key moments of training; h) excerpt No. 15: exams and internships may be supervised by a designated professional who is neither the mediator nor the professor; i) excerpt No. 16: the possibility of opening EaD centers in partnership with legal entities remains, meaning spaces not exclusively dedicated to education; j) excerpt No. 17: with a two-year period for compliance, implementation is subject to potential government change.

The way Decree No. 12.456 of 2025 names and organizes education professionals deserves more detailed analysis. The roles mentioned are:

coordinator, lead professor, content professor, pedagogical mediator, tutor with administrative functions, and a sixth professional trained by the institution to supervise students during exams and other activities. This polysemic confusion, which awaits a new document to clarify each role's functions—as has happened with previous legislation—creates fertile ground for flexibilization, since, in practice, for-profit institutions tend to opt for cheaper labor. The study by Scudeler and Tassoni (2023) has already shown that the expansion of EaD, intensified after the 2017 Decree, was accompanied by mass layoffs of professors in educational groups, leading to a scenario in which cases of one tutor per 1,000 students have already been documented.

The new EaD framework restructures the conception of higher education in this modality, which until then had little (or no) mention of academic excellence or social commitment. New principles and forms of regulation are introduced, aiming to better define aspects that the previous legislation left open.

Conclusion

The publication of Decree No. 9.057 of May 2017, according to Scudeler and Tassoni (2023), was motivated by the drastic cut in funding transfers from FIES, which began in 2015, leading private institutions to pressure the State for more permissive regulations regarding the opening of Distance Education (EaD) learning centers. The text contains numerous passages aligned with the categories of privatization and flexibilization; furthermore, it is short, generic, and abstract, leaving several issues unresolved, such as accreditation criteria, duration, and the structural axes of curricular organization, among others. A scenario that was already concerning becomes even more precarious with State authorization; thus, the devaluation of the academic degree is materialized. Once the barriers limiting the number of students per class are removed, EaD becomes one of

the most profitable businesses in the country, in which the sale of standardized educational services, driven by mergers and acquisitions, reveals the face of a global phenomenon: edu-business.

The second document analyzed was Decree No. 12.456 of May 19, 2025, which introduced new rules for EaD in higher education. In a clear attempt to impose limits on unprecedented growth, the text brings positive changes that may contribute to improving the quality of education offered. Among them are the mention of academic excellence, education for citizenship, and the social commitment of public and private higher education institutions (HEIs) as guiding principles of EaD; the organization of modalities into on-campus, hybrid, and distance learning, with in-person presence being mandatory in all of them; the guarantee of the same completion time for both EaD and on-campus programs; and, finally, the prohibition of EaD for teacher education programs and courses in the health field. Some negative aspects were also observed, especially the confusing way in which the document organizes and names EaD professionals, leaving room for multiple interpretations and possibilities for flexibilization and the hiring of underpaid staff.

It is concluded that Distance Education (EaD), while driven by changes in educational legislation, has also produced transformations in educational policies. It is evident, particularly in the data from the latest Higher Education Census (Brazil, 2025c), that EaD has already become the majority mode of higher education in the country, reinforcing the growth of a for-profit sector organized according to the principles of privatization and flexibilization, categories explored in this article. Conceptual and analytical rigor is necessary so that the expansion of EaD is not mistaken for democratization, considering that standardized and low-cost programs tend not to produce an education truly committed to social transformation. However, this should be the commitment of all higher education.

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