

**The Democratization in Discourse and in Practice:
the normative trajectory of Distance Education and its relations with regulatory
flexibilization and market expansion¹**

*A Democratização em Discurso e em Prática:
trajetória normativa da educação a distância e suas relações com a flexibilização regulatória e a
expansão para o mercado*

*La Democratización en el Discurso y en la Práctica:
la trayectoria normativa de la Educación a Distancia y sus relaciones con la flexibilización
regulatoria y la expansión hacia el mercado*

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Abstract: Education, as a social right, has historically been shaped by disputes surrounding the role of the State and the purposes of educational policies. In Brazil, Distance Education (EaD - *Educação a Distância*), recognized by the Law of Guidelines and Bases of National Education (*Lei de Diretrizes e Bases da Educação Nacional*, Law No. 9,394/1996), has been consolidated as a strategy to expand access to higher education, especially since the 2000s. However, its regulatory trajectory reveals tensions between the discourse of democratization and the concrete forms of its implementation. This study analyzes the normative framework of Distance Education in Brazil, based on a documentary survey of official sources, including institutional websites such as the Portal do Planalto and the *MEC Normas* system. The investigation examines how laws, decrees, ordinances, and resolutions have structured this modality, seeking to identify whether these instruments have contributed to ensuring quality or to the flexibilization of provision. The theoretical framework is grounded in authors from the field of educational policy, particularly Dourado (2017), Lima, Echalar, and Oliveira (2020), Lima (2013 and 2025), and Mill (2016), who support the analysis of policies through the categories of State, regulation, quality, and project disputes. The findings indicate that the materialization of Distance Education policies occurs in a heterogeneous and contradictory manner, expressing disputes among different State projects and revealing the coexistence of two movements: one oriented towards state regulation and socially referenced quality, and another marked by normative flexibilization and the market-driven expansion of Distance Education.

Keywords: Distance Education; Educational Policies; Educational Regulation; Quality; Commodification.

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Resumo: A educação, enquanto direito social, tem sido historicamente configurada por disputas em torno do papel do Estado e das finalidades das políticas educacionais. No Brasil, a Educação a Distância (EaD), reconhecida pela Lei de Diretrizes e Bases da Educação Nacional (Lei nº 9.394/1996), consolida-se como estratégia de ampliação do acesso à educação superior, especialmente a partir dos anos 2000. Contudo, sua trajetória regulatória revela tensões entre o discurso de democratização e as formas concretas de implementação. Este estudo analisa o arcabouço normativo da EaD no Brasil, com base em levantamento documental realizado em fontes oficiais, incluindo sítios institucionais do Portal do Planalto e do sistema MEC Normas. A investigação examina como leis, decretos, portarias e resoluções estruturaram a modalidade, buscando identificar se tais dispositivos contribuíram para a garantia de qualidade ou para a flexibilização da oferta. O referencial teórico fundamenta-se em autores do campo das políticas educacionais, com destaque para Dourado (2017), Lima, Echalar e Oliveira (2020), Lima (2013 e 2025) e Mill (2016), que subsidiam a análise das políticas a partir das categorias Estado, regulação, qualidade e disputas de projetos. Os resultados indicam que a materialização das políticas de EaD ocorre de forma heterogênea e contraditória, expressando disputas entre diferentes projetos de Estado e revelando a coexistência de dois movimentos: um orientado pela regulação estatal e pela qualidade socialmente referenciada, e outro marcado pela flexibilização normativa e pela expansão mercantil da EaD.

Palavras-chave: Educação a Distância; Políticas Educacionais; Regulação Educacional; Qualidade; Mercantilização.

Resumen: La educación, en tanto derecho social, ha sido históricamente configurada por disputas en torno al papel del Estado y a las finalidades de las políticas educativas. En Brasil, la Educación a Distancia (EaD), reconocida por la Ley de Directrices y Bases de la Educación Nacional (Ley n.º 9.394/1996), se consolida como una estrategia de ampliación del acceso a la educación superior, especialmente a partir de los años 2000. No obstante, su trayectoria regulatoria revela tensiones entre el discurso de democratización y las formas concretas de implementación. Este estudio analiza el marco normativo de la Educación a Distancia en Brasil, a partir de un relevamiento documental realizado en fuentes oficiales, incluyendo sitios institucionales como el Portal del Planalto y el sistema MEC Normas. La investigación examina cómo leyes, decretos, ordenanzas y resoluciones han estructurado esta modalidad, buscando identificar si dichos instrumentos han contribuido a la garantía de la calidad o a la flexibilización de la oferta. El marco teórico se fundamenta en autores del campo de las políticas educativas, con destaque en Dourado (2017), Lima, Echalar y Oliveira (2020), Lima (2013 y 2025) y Mill (2016), quienes sustentan el análisis de las políticas a partir de las categorías de Estado, regulación, calidad y disputas de proyectos. Los resultados indican que la materialización de las políticas de EaD ocurre de forma heterogénea y contradictoria, expresando disputas entre distintos proyectos de Estado y revelando la coexistencia de dos movimientos: uno orientado por la regulación estatal y por una calidad socialmente referenciada, y otro marcado por la flexibilización normativa y la expansión mercantil de la Educación a Distancia.

Palabras clave: Educación a Distancia; Políticas Educativas; Regulación Educativa; Calidad; Mercantilización.

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Introduction

Historically, education has been shaped and materialized through educational policies grounded in the conceptions and functions ascribed to the prevailing model of the State in each historical period. In Brazil, significant transformations have occurred in the consolidation of education as both a social right and a duty of the State, particularly following the enactment of the 1988 Federal Constitution. Article 205 of the Constitution establishes important challenges regarding the guarantee of education for all.

Since this historical milestone affirming the right to education, during which discourse on proposals for education for all intensified, particularly in higher education, Lima (2025) highlights the widespread adoption of policies and initiatives to expand Distance Education (DE). Since then, the expansion of Distance Education (DE) in Brazilian higher education has assumed a central role in educational policy agendas and in academic and institutional debates.

This milestone was further consolidated with the enactment of the National Education Guidelines and Framework Law (LDB No. 9,394/1996), which, in Article 80, formally recognized Distance Education as a legitimate educational modality complementary to the national education system, ensuring its students the same rights guaranteed to those enrolled in face-to-face programs. Following this legislation, a reconfiguration of the role of Distance Education can be observed, as it ceased to be regarded as an exceptional educational practice and became integrated into public policies aimed at expanding access to higher education (Lima, 2013).

In this regard, Article 80 of LDB No. 9,394/1996 inaugurated a cycle of public policy development and specific regulatory measures for Distance Education, assigning the Federal Government a central role in its regulation and oversight.

However, the regulatory framework governing Distance Education did not develop in a neutral manner. Rather, it has been shaped by competing societal projects in which, on the one hand, there exists a discourse advocating the democratization of access to higher education with social quality, and, on the other, practices grounded in rationales that position Distance Education as a low-cost expansion mechanism aligned with the commodification of higher education. In other words, while Distance Education has become firmly established as a recurring strategy for expanding and democratizing access, political and institutional disputes have intensified, giving rise to tensions surrounding conceptions of democratization, quality, and the social function of distance learning.

In this study, the term *discourse* refers to the set of statements, justifications, and normative foundations found in legal documents, educational policies, and institutional declarations that present Distance Education as a strategy for democratizing access. The term *practice*, in turn, refers to the materialization of these policies, that is, the concrete ways in which Distance Education is implemented, regulated, and evaluated through regulatory frameworks. It encompasses the actual effects of educational policies on ensuring the social quality of higher education provision.

An analysis of the regulatory framework governing Distance Education in Brazil reveals regulations that sought to give concrete expression to the discursively affirmed principles of democratization of access and quality assurance through the strengthening of state regulation, the establishment of national standards, and the promotion of educational quality benchmarks. Conversely, other regulatory measures reconfigured these same principles by subordinating them to the logic of accelerated expansion, regulatory flexibilization, and the enlargement of opportunities for private-sector participation, thereby contributing to the advancement of the commodification of Distance Education.

Thus, investigating Distance Education (DE) means examining its meanings and implications in the implementation of public policies which, although guided by the discourse of democratization and equity, are shaped by distinct projects of society and education, giving rise to the following question: to what extent have the DE policies formulated since its institutionalization by the LDB/1996 translated, in practice, the discourse of democratizing access to higher education with social quality, or have they merely met the demands for the expansion of access under the logic of State rationalization?

Considering this and considering the relevance of Distance Education (DE) in expanding and democratizing access to higher education, this research is grounded in the assumption that education constitutes a political act, as highlighted by Freire (1991), marked by contradictions and conditioned by the power relations that permeate society. From this perspective, DE, understood as education in its broadest sense, is not merely an educational modality but a concrete expression of the political, economic, and ideological mediations that shape the educational field.

To conduct this study, a documentary review was developed, focusing on the analysis of the body of legislation regulating Distance Education (DE) in Brazil since its institutionalization through LDB No. 9,394/1996. Data collection was carried out using official sources, including the institutional websites of the *Palácio do Planalto*, the Ministry of Education (MEC), the National Education Council (CNE), the National Institute for Educational Studies and Research Anísio Teixeira (Inep), as well as academic databases.

With regard specifically to the normative acts issued by the MEC, the MEC Normas system was used, established by MEC Ordinance No. 817/2025, which compiles, in a standardized manner, the regulations published in the Official Gazette of the Union (DOU), including Ordinances, Normative Instructions, Opinions, and Resolutions issued by the Ministry and its affiliated bodies, such as the CNE, Capes, FNDE, and Inep. The research was conducted chronologically using filters by act type and subject matter, selecting the category “Higher Education Regulation and Supervision Policy.” The documents were individually analyzed regarding their purpose and relevance, and those addressing DE directly or indirectly were included in the corpus, particularly with respect to conditions of provision, academic organization, assessment, regulation, and supervision. This procedure was also applied to MEC Ordinances and CNE/CES Opinions and Resolutions, ensuring consistency in the selection process.

The review aimed to identify the extent to which the regulatory framework of Distance Education (DE) is oriented toward promoting and ensuring quality standards, consolidating the modality as a public policy committed to the democratization of access, or, conversely, whether it has contributed to the flexibilization of provision and to expansion driven by logics of cost rationalization and the reduction of educational requirements.

Regulatory Evolution of Distance Education (DE) Since the Promulgation of the 1988 Federal Constitution

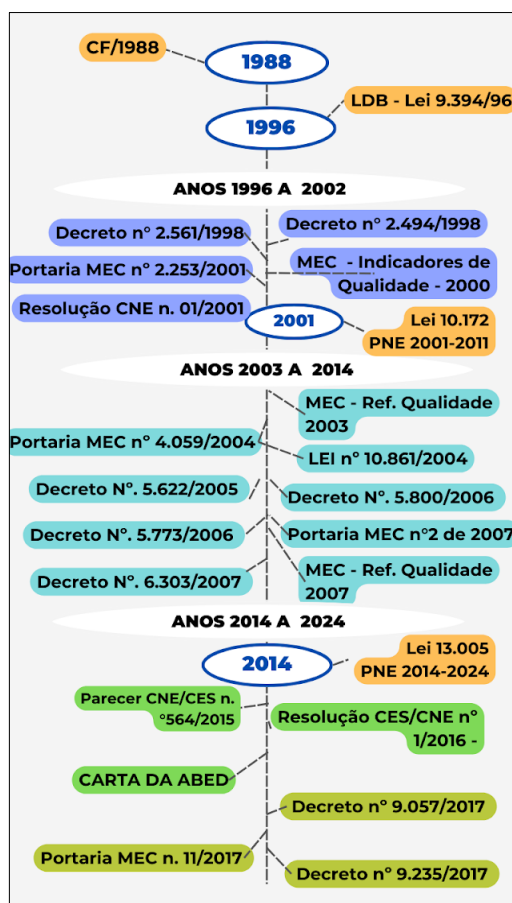
Since its formal recognition, Distance Education (DE) has experienced significant growth. The first regulatory milestones supporting DE began to emerge with the 1988 Federal Constitution. Although the Constitution does not explicitly refer to DE, according to Chiantia (2008), its legal framework allows for the understanding that DE is fully integrated into the right to education. This is because Article 205 defines education as a right of all, aimed at the full development of the individual, the exercise of citizenship, and preparation for work, principles that extend to all forms of educational provision.

Following this constitutional milestone, Distance Education was recognized as an educational modality by LDB No. 9,394/1996 and was subsequently regulated through a series of laws, decrees, normative ordinances, decrees, and resolutions that, over the following decades, materialized different conceptions of Distance Education, as well as established divergent regulatory parameters supported by the discourse of democratization and the guarantee of socially referenced quality.

This regulatory trajectory reveals a complex movement between two forces: on the one hand, the pursuit of the democratization of higher education, expanding educational opportunities in fulfillment of the expansion goals established by the National Education Plan (2014–2024); on the other, the growing commodification of education, which drove a process of massification that was not always associated with educational quality. Each legal milestone along this path reveals, to a greater or lesser extent, which of these logics prevailed.

Figure 1 summarizes this regulatory trajectory through a timeline that brings together the legal acts related to Distance Education (DE) in Brazil, providing an integrated view of the evolution of regulatory measures over the period analyzed.

Figure 1 – Timeline of the Regulatory Evolution of Distance Education (DE) in Brazil, from 1988 to 2024



Source: Prepared by the author (2025).⁴

⁴ **1988:** Federal Constitution (CF/1988). **1996:** LDB – Law No. 9,394/1996 (*National Education Guidelines and Framework Law*). **1996–2002:** Decree No. 2,561/1998; Decree No. 2,494/1998; MEC Quality Indicators – 2000; MEC Ordinance No. 2,253/2001; CNE Resolution No. 01/2001. **2001:** Law No. 10,172 – National Education Plan (PNE) 2001–2011. **2003–2014:** MEC Ordinance No. 4,059/2004, MEC Quality Framework – 2003, Law No. 10,861/2004, Decree No. 5,622/2005, Decree No. 5,800/2006, Decree No. 5,773/2006, MEC Normative Ordinance No. 2/2007, MEC Quality Framework – 2007, Decree No. 6,303/2007. **2014–2024:** Law No. 13,005 – National Education Plan (PNE) 2014–2024; CNE/CES Opinion No. 564/2015; ABED Letter; CNE/CES Resolution No. 1/2016; MEC Ordinance No. 11/2017; Decree No. 9,057/2017; Decree No. 9,235/2017.

Regulatory Evolution of Distance Education (DE): Quality Milestones in Brazilian Distance Education

Between 1996 and 2024, the period spanning from the official incorporation of Distance Education (DE) into the Brazilian educational legal framework through Article 80 of LDB No. 9,394/1996 to the period covered by this study is characterized by the development of a robust regulatory framework, resulting from disputes between different State projects, at times oriented toward guaranteeing educational rights and, at others, aligned with agendas of expansion and efficiency aimed at meeting the demands of the private sector market (Lima, 2013).

With the enactment of LDB No. 9,394/1996, Distance Education was recognized as a valid educational modality at all levels of education. This milestone was an essential step toward consolidating the legal framework that would subsequently regulate DE in Brazil. Article 80 of LDB No. 9,394/1996 makes this orientation explicit by establishing that “the Public Authorities shall encourage the development and delivery of distance education programs at all levels and modalities of education, as well as continuing education” (Brazil, 1996). This guideline not only legitimizes the modality but also assigns the State responsibility for promoting and fostering it, granting it the status of a strategic public policy.

However, despite its structural relevance, the LDB's terminological choice to define DE as a modality of *teaching* rather than *education* deserves attention. This semantic choice is not neutral. As noted by Fonseca and Lima (2024), the emphasis on the category of *teaching* may indicate, in that historical context, a more restricted and instrumental conception of the modality, bringing it closer to a technicist model centered on content transmission, to the detriment of a broader understanding of education as a process of holistic development. Following this legal milestone, Distance Education was progressively regulated through a series of laws, decrees, ordinances, and resolutions, as illustrated in Figure 1, which, over the subsequent decades, materialized different conceptions of Distance Education, as well as established divergent regulatory parameters supported by the discourse of democratization and the guarantee of socially referenced quality.

The first two documents regulating Article 80 of the LDB, Decree No. 2,494 of February 10, 1998, and Decree No. 2,561 of April 27, 1998, which amended the wording of Articles 11 and 12 of the previous decree, indicated a certain degree of progress by establishing provisions aimed at ensuring quality and by defining rules and the responsible authority for accreditation and evaluation of the modality. However, despite this regulatory effort, according to Lima (2013, p. 153), these documents remained grounded in a technicist

conception of Distance Education, predominant at that historical moment and reflected in the initial formulations of DE in Article 80 of LDB No. 9,394/1996, which defined it as “a form of teaching that enables self-learning.”

The consolidation of DE as a public policy instrument to expand and democratize access to higher education gained prominence within the context of the National Education Plan (PNE) 2001–2011, established by Law No. 10,172 of January 9, 2001. This regulation introduced important advances, such as adopting the term *Distance Education*, replacing the technicist notion of *distance teaching* used in previous regulations. In addition, it set forth 22 objectives and targets aimed at ensuring regulation, quality assurance, infrastructure, new technologies, and, above all, the democratization of access. Nevertheless, the presidential vetoes of the funding targets proposed in the project drafted by civil society, which weakened the implementation of the actions envisaged for the modality, the emphasis placed on technologies as central mechanisms for improving teaching, contributing to an instrumental view of quality detached from the political-pedagogical dimensions of the educational process, and the repeated references to the need to consider the “contribution of the private sector,” reinforced the trend toward transferring State responsibilities to private initiative. (Brasil, 2001).

Beginning in 2003, during the Lula administration, the legal framework for DE was strengthened to consolidate the conditions for delivering higher-quality programs. In that year, the Ministry of Education sought to respond to these tensions through the publication of the first Quality Framework for Distance Higher Education (2003), which, although not legally binding, guided the development of more coherent pedagogical projects, emphasizing the need to articulate pedagogical, technological, administrative, and student support dimensions.

The regulatory cycle deepened in 2004 with the creation of the National System for the Evaluation of Higher Education (SINAES) through Law No. 10,861 of April 14, 2004, which inaugurated a new paradigm in which DE ceased to be treated as a regulatory exception and came to be evaluated, supervised, and accredited based on parameters equivalent to those applied to face-to-face education.

This movement culminated in Decrees No. 5,622 of December 19, 2005, and No. 5,773 of May 9, 2006, which qualitatively altered the concept of DE, shifting from a technicist conception to a mediating one, defining it as an educational modality and adopting a socially referenced orientation, in which technologies cease to be viewed as ends in themselves and instead become mediating instruments in a constructive and

constitutive process between teacher and student. This redefinition can be observed in Article 1 of Decree No. 5,622/2005, which establishes:

Art. 1 – For the purposes of this Decree, Distance Education is characterized as an **educational modality** in which didactic-pedagogical mediation in the teaching and learning processes occurs through the use of information and communication technologies, with students and teachers carrying out educational activities in different places or at different times (Brazil, 2005, emphasis added).

Decree No. 5,622/2005, therefore, constitutes a regulatory milestone in the policy of quality assurance, as it more clearly systematized various aspects, particularly those related to institutional accreditation, supervision, monitoring, and evaluation, aligned with the quality standards set forth by the Ministry of Education in the Quality Framework document published in 2003. Subsequently, Decree No. 5,773/2006 further strengthened this regulatory structure by fully integrating the modality into SINAES, reinforcing and improving the system of regulation, supervision, and evaluation of higher education institutions and their programs. This decree established more rigorous criteria for institutional accreditation specific to DE, as well as defining minimum requirements for the operation of on-site support centers, consolidating their strategic role in evaluation and accreditation processes.

Within this same movement toward regulatory strengthening, MEC Normative Ordinance No. 2 of January 2007 stands out for establishing more objective parameters for on-site reviews at both institutional headquarters and support centers, as part of accreditation and program authorization processes, thereby reinforcing its alignment with SINAES. Added to this was Decree No. 6,303/2007, which refined previous regulations by detailing criteria for the methodological organization of DE, thereby contributing to greater standardization and oversight of its provision. Complementing these measures, the updated Quality Framework for Distance Education (2007), published by the MEC, further deepened the conception of education as its primary foundation, articulating criteria in support of Distance Education as holistic education, integrating the technical-professional dimension with the political-citizenship dimension, thereby establishing more consistent parameters for quality assurance in the modality.

An analysis of the DE regulatory framework, based on this foundation, shows that even amid tensions between quality demands and private-sector pressures, the gradual evolution of DE regulation was characterized by continuous efforts toward standardization. These efforts sought not only to consolidate DE as a legitimate modality within the Brazilian educational system but also to respond to the early experiences of its accelerated and heterogeneous expansion by imposing greater State oversight, greater institutional

accountability, and a clearer logic of supervision, thereby guiding its expansion in closer alignment with public policies aimed at democratizing access to higher education.

Mill (2016, p. 436) reinforces this argument, highlighting the years 2003 and 2005 as the years in which normative acts aimed at promoting quality in DE were established, and identifies the “[...] Quality Framework [...] and Decree No. 5,622/05 as examples of regulations aimed at the implementation of higher-quality DE programs.”

This movement culminated in a regulatory framework for DE that evolved from an initially technicist conception, centered on self-learning and the instrumental use of technologies, to a structured model with its own identity, aligned with quality assurance through the intensification of regulatory actions, such as the strengthening of accreditation and authorization processes and the refinement of evaluation instruments conducted by the MEC, which came to incorporate specific criteria for programs and institutions offering DE.

According to Mill (2016), this period is characterized as the golden age of DE, as it provided the modality with public investment, stability, quality, and the overcoming of the prejudice to which it had been subjected, in addition to securing a place within federal public higher education institutions that had previously resisted the modality.

It is worth noting that the observation of the State’s capacity to ensure the stability and adaptability of DE public policy is considered as a whole, based on its regulation as expressed through laws, decrees, ordinances, and resolutions.

Regulatory Evolution of Distance Education (DE): The Reconfiguration of the DE Regulatory Framework

The regulatory trajectory of DE in Brazil between 1996, the year in which DE was officially regulated through Article 80 of LDB No. 9,394/1996, and 2014, when the National Education Plan (PNE) 2014–2024 was enacted, established fundamental foundations for understanding the transformations that intensified from that period onward. Throughout these nearly two decades, amid tensions between quality and the private sector's interests, a regulatory framework prevailed that was oriented toward the institutionalization of DE, the enhancement of quality standards, and the strengthening of State mechanisms for supervision and evaluation.

However, this model began to undergo significant shifts during the implementation of the PNE 2014–2024, when new dynamics of regulatory flexibilization, reconfiguration of regulatory processes, and the growing prominence of market-oriented logic substantially altered the pattern of expansion that had been consolidated up to that point.

The PNE (2014–2024), enacted through Law No. 13,005 of June 25, 2014, resulted from a process marked by intense debates and political disputes over three years, with strong participation from civil society and political actors, based on the initial proposal outlined in the PNE Bill drafted by the MEC and submitted by the Federal Executive Branch to the National Congress as Bill No. 8,035/2010. Its formulation was strongly influenced by the deliberations of the National Education Conference (Conae/2010), which served as the main participatory forum guiding the Plan’s directives.

Within discussions on education policy and governance, the final document of Conae/2010 highlighted the strategic role of DE in expanding educational opportunities, both in serving higher-education students and in the initial and continuing education of teachers.

If properly structured as a policy integrated with a broader set of face-to-face educational activities, continuing teacher education delivered through the DE modality can contribute to democratizing access to new educational spaces and learning opportunities, providing greater flexibility in the organization and development of studies, strengthening intellectual autonomy, and fostering knowledge of new information and communication technologies (Brazil, 2010, p. 66).

However, while the conference recognized the democratizing potential of DE, it also emphasized the need to consolidate quality-assurance mechanisms to prevent its quantitative expansion from diverging from appropriate educational standards and commitments to educational equity.

The coordination between the Ministry of Education (MEC) and the education systems, involving universities within the context of implementing a national education system, should be directed toward public policies aimed at expanding and decentralizing the provision of free, high-quality higher education, prioritizing face-to-face education and monitoring DE programs, so that, when necessary, they are implemented with social quality (Brazil, 2010, p. 86).

Regarding quality assurance criteria, the final document of Conae/2010 presents important guidelines, highlighting the central role of the teacher throughout all stages of the educational process and the relevance of face-to-face activities that foster collective learning. It emphasized the need for institutions to ensure, both at their headquarters and at on-site support centers, consistent pedagogical processes that promote continuous monitoring and systematic evaluation of educational provision. It also stressed the need for properly qualified teaching and tutoring staff, as well as adequate physical, structural, and technological conditions at support centers, to ensure the effectiveness of educational practices within DE (Brazil, 2010).

However, the process leading to the Plan's approval was neither linear nor uniform but rather marked by intense political and ideological disputes. Dourado, Santos, and Moraes (2017) argue that throughout this process, the strong participation of civil society, academic organizations, movements advocating for public education, and, simultaneously, sectors aligned with market interests resulted in the submission of more than 3,000 amendments to the original text. This process revealed structural tensions between conceptions of education as a social right and projects guided by the logic of commodification. At the end of this process, the PNE (2014–2024) was enacted in its entirety, without presidential vetoes, incorporating important advances over the initial proposal, although it also suffered significant losses, particularly regarding public funding and its allocation.

Thus, following its approval and enactment, the PNE (2014–2024) became the legal and regulatory instrument guiding State policies and actions, with collaborative commitments aimed at advancing Brazilian education at all levels and modalities throughout its implementation period (Brazil, 2014). Its validity was extended through Law No. 14,934/2024, prolonging its effects until December 31, 2025.

Within its scope, PNE established 20 goals and 254 strategies covering all levels of education. For Goal 12, which constitutes the central focus of this study, 21 strategies aimed at expansion were approved, including the creation of places in the federal public system through the expansion of campuses into underserved regions, student assistance and mobility policies, funding programs for students enrolled in private institutions, and the restructuring of state and municipal higher education institutions (Brazil, 2014).

This goal is based on increasing the gross enrollment rate in higher education to 50% and the net enrollment rate to 33% of the population aged 18 to 24, while ensuring the quality of provision and allocating at least 40% of new enrollments to the public sector (Brazil, 2014). It is important to note that, according to Dourado, Santos, and Moraes (2017), the definition of this expansion target for the public sector resulted from significant pressure and mobilization by representative organizations in education.

In the field of Distance Education goals, Dourado, Santos, and Moraes (2017) highlight that, although the final document of Conae/2010 presented a variety of proposals and recommendations for the PNE (2014–2024), the Plan incorporated few specific guidelines. Nevertheless, “the goals aimed at expanding higher education, especially Goals 12 and 14, include strategies related to DE and educational technologies.” In this context, the authors further argue that DE “is identified as a strong strategy in the process of expanding this educational level, contributing to the achievement of Goal 12 of the Plan” (Dourado; Santos; Moraes, 2017, p. 179).

Regarding the enacted text of Goal 12 and its strategies, a comparison with the original text contained in Bill No. 8,035/2010 reveals a significant change in the incorporation of Strategy 12.20 of the PNE (2014-2024):

12.20) to expand, within the scope of the Higher Education Student Financing Fund (*FIES*), established by Law No. 10,260 of July 12, 2001, and the University for All Program (*PROUNI*), established by Law No. 11,096 of January 13, 2005, the benefits intended for the provision of financial aid to students regularly enrolled in face-to-face or distance higher education programs that have received a positive evaluation, in accordance with specific regulations, through processes conducted by the Ministry of Education (Brazil, 2014)

The inclusion of this strategy made it possible to finance distance education programs through Prouni and Fies. This inclusion not only directly addressed the demands of private institutions seeking to increase the use of public funding to expand the higher education they offer but also represented one of the most intense disputes during the Plan's negotiation process. Dourado, Santos, and Moraes (2017) further argue that the private education sector exerted a strong influence on decision-making, including on parliamentary votes, with the aim of expanding capital accumulation, particularly in the distance education modality.

Following pressure from organized civil society, the federal government released a Technical Note on the PNE covering the period from 2011 to 2020 (Brazil, 2011), presenting data on the current state of education in Brazil and providing indications regarding the implementation of DE within the expansion process proposed under Goal 12. The document clarifies that the growth of higher education enrollments should occur through an articulated effort between the public and private sectors, explicitly stating that, within public institutions, the expansion of provision would occur in equivalent proportions between face-to-face programs (50%) and distance education programs (50%), without, however, specifying the conception of DE to be adopted.

Another tension highlighted in this Technical Note concerns the parameters used to project the expansion of higher education through DE. In the estimate of annual cost per student presented by the federal government for the implementation of the PNE (2014-2024), a significant discrepancy can be observed: while the annual cost per student in face-to-face programs was estimated at R\$15.5 thousand, the projected amount for distance education programs was only R\$3.09 thousand. According to Dourado, Santos, and Moraes (2017), this substantial difference reveals an understanding within the government that DE would operate as a low-cost alternative for expansion, an assumption that directly contradicts evidence produced by national and international research. Such studies demonstrate that providing DE with adequate quality standards requires substantial investments in technological

infrastructure, the training and professional development of multidisciplinary teams, the production of robust instructional materials, tutoring and student support systems, and consistent assessment processes.

Just as evidenced in the previous regulatory trajectory, it can be observed that the policies, strategies, and goals established in the PNE (2014–2024) result from a process of uneasy conciliation between two distinct rationalities: on the one hand, an orientation toward quality assurance, supported by the historical demands of movements advocating for public education; on the other, a logic of accelerated expansion aligned with market interests, particularly with regard to the expansion of DE provision.

This ambivalent articulation, marked by political and institutional disputes, continued to shape the production of subsequent regulations governing DE provision during this period. In the context of rapid expansion, conceptual disputes, the absence of uniform quality criteria, and the legal demands of the PNE, an important step toward implementing Resolution No. 1 of March 11, 2016, specifically addressing the DE modality, stands out at the regulatory level. Issued by the National Education Council through the approval of CNE/CP Opinion No. 564/2015 and subsequently ratified by the MEC, it was “aimed at ensuring greater coherence and institutionalization in the provision of this modality.” (Brazil, 2016, p.1).

The development of this Resolution, initiated through the drafting of CNE/CP Opinion No. 564/2015, involved broad participation from different stakeholders, including “[...] institutional actors from the public and private sectors; organizations in the field; departments of the Ministry of Education; Capes; Inep; as well as specialists, among others,” which generated numerous debates and conceptual disputes (Brazil, 2015, p. 3).

Within this democratic and scientific process of development, CNE/CP Opinion No. 564/2015 highlights that it took into consideration:

[...] the deliberations of the National Education Conferences (I Conae 2010 and II Conae 2014), as well as the extensive process of studies, consultations, discussions, experiences, and innovative proposals resulting from research, educational indicators, evaluations, and perspectives on DE as an educational modality, while also considering the challenges faced by the Brazilian State in ensuring the expansion of higher education and effective quality standards in meeting the goals of the PNE, which will certainly require educational policy efforts and greater coordination to implement cooperative and collaborative actions among the federative entities and between higher education and basic education institutions. (Brazil, 2015, p. 3).

CNE/CES Resolution No. 01/2016 established guidelines and standards for the provision of higher education programs and courses in the distance education modality, as well as a basis for the policies and processes of evaluation and regulation of programs and

higher education institutions, grounded in the requirements already established by Decree No. 5,622 of 2005 and the Quality Framework then in force, issued in 2007. The document presents a conception of Distance Education as an educational, didactic-pedagogical modality within teaching and learning processes, carried out through the use of information and communication technologies, qualified personnel, compatible access, monitoring and evaluation policies, among other elements, in a way that fosters greater articulation, effective interaction, and complementarity between face-to-face and “real” virtual environments, the local and the global, subjectivity and democratic participation in teaching and learning processes that develop educational activities across different places and/or times.

The conception of DE adopted in CNE/CES Resolution No. 01/2016 was guided by the principle of socially referenced quality, thereby defining criteria to ensure its implementation. The regulation established that DE should be implemented through the institutional policies of higher education institutions (Institutional Development Plan – PDI, Institutional Pedagogical Project – PPI, and Program Pedagogical Project – PPC), aligning them with current educational policies, such as the National Curriculum Guidelines, the National System for the Evaluation of Higher Education, and the quality standards and frameworks established by the MEC and Inep. It also established responsibilities for higher education institutions regarding academic organization, evaluation, professional development, management of support centers, and the production of educational materials. Furthermore, it defined the roles of institutional headquarters and DE support centers; regulated institutional accreditation, reaccreditation, and amendments to institutional and support center accreditation, considering the evaluation process of the various dimensions as well as the formal documentation required under SINAES, established by Law No. 10,861 of 2004; addressed collaborative arrangements among institutions and authorization and evaluation processes; and provided that education professionals involved in DE provision should receive training consistent with current legislation and specific preparation for working in this modality.

Mill (2016, p. 450) discusses the process of developing CNE/CES Resolution No. 1/2016, highlighting the debates, the positions taken by the scientific and educational community in the field, and the representative associations of the different groups involved in the movement toward the establishment of new national standards and guidelines for the provision of distance higher education programs and courses, “[...] with the expectation that it would meet the essential requirements for establishing quality DE programs.”

However, this Resolution was subject to numerous criticisms from the private sector, which argued that many of its demands presented during the public debates were not

incorporated into the final version of the text. Among these manifestations, the Letter issued by the Brazilian Association for Distance Education (ABED), submitted to the Ministry of Education on March 9, 2016, stands out as evidence of tensions between the public and private sectors in education. In the document, ABED (2016, p. 1) takes a strong position, arguing that the framework of guidelines “is outdated and restrictive with regard to the expansion and the academic and intellectual autonomy of Higher Education Institutions (HEIs),” and that the accreditation criteria constitute acts of “extreme bureaucracy,” thereby creating rigidity and hindering “progress toward innovation and more open, flexible, technology-mediated, and distance educational practices.” The document concludes by stating that (CNE/CES Resolution No. 1/2016) “contains no effective advances in either its content or substance” and that its implementation “will further harm education in our country and, consequently, society as a whole, greatly reducing the likelihood of effectively achieving the goals of the National Education Plan (PNE) (2014–2024).”

Among the proposed amendments submitted by ABED (2016) during the revision of CNE Resolution No. 01/2016, which it claimed reflected the demands of the broader higher education community, were:

Authorization and regulation of the use of Digital Libraries; authorization and regulation for the expansion of support centers by HEIs with a continuous General Course Index (IGC) equal to or greater than 4, **allowing such institutions to expand the number of support centers every two years without requiring a prior site visit for their activation;** permission for the establishment of HEIs dedicated exclusively to offering programs in the distance education modality; definition of the modality of programs according to the predominant mode of delivery of teaching and learning activities; and the need for a comprehensive revision of the Quality Framework for Distance Higher Education (2007), **so as to accommodate diverse didactic-pedagogical models that do not necessarily require face-to-face tutoring** (ABED, 2016, p. 2, emphasis added).

Following the impeachment of President Dilma Rousseff in August 2016, some of these demands began to be incorporated into regulatory updates regarding DE. A process of regulatory flexibilization can then be observed, moving away from the framework oriented toward the guarantee of socially referenced quality and drawing closer to a discourse centered on the adoption of measures identified by ABED (2016, p. 2) “that do not generate delays in institutional educational activities and compromise the proper service provided to students and the community,” and that would allow “Distance Education (DE) to become an effective possibility for the expansion of higher education, social inclusion, and the democratization of education.”

Thus, the logic of establishing guidelines and quality standards for the provision of DE, advocated during the initial period of its regulation through Article 80 of Law No. 9,394/1996, Decrees No. 5,622/2005 and No. 6,303/2007, and CNE/CES Resolution No. 01/2016, was gradually replaced by this discourse, exemplified by the proposals put forward by ABED (2016). Following this movement, Decree No. 9,057/2017 was enacted in May 2017, regulating Article 80 of LDB No. 9,394/1996 and repealing Decrees No. 5,622/2005 and No. 6,303/2007. Within this context of regulatory renewal, Distance Education came to be governed by a regulatory framework that, although maintaining its characterization as an educational modality, advocated greater regulatory flexibility.

Decree No. 9,057/2017 maintained the requirement for face-to-face assessments, internships, and practical activities, but expanded the possibility of conducting these activities in “professional environments,” and not only at support centers or institutional headquarters (Art. 4). It granted autonomy for the creation of DE support centers without the need for on-site evaluation, allowing them to be automatically authorized based on the Institutional Score (CI), an indicator resulting from institutional evaluation (Art. 16), and removed the requirement for such evaluations in institutional accreditation and reaccreditation processes, as well as in the authorization or renewal of program recognition (Art. 13). Furthermore, it authorized institutions to offer exclusively undergraduate and graduate programs through DE (Art. 11), reinforcing the movement toward regulatory flexibilization.

Subsequently, the MEC issued Normative Ordinance No. 11 on June 20, 2017, to regulate institutional accreditation processes and the provision of distance education programs, in accordance with Decree No. 9,057/2017. The flexibilization measures were detailed and expanded: institutions were allowed to obtain accreditation exclusively for DE, without any requirement to offer face-to-face programs; on-site evaluations became concentrated solely at the institution’s headquarters, while support centers were subject only to document review or evaluation through technological resources provided by the institution (Art. 5); institutions were authorized to create DE programs through their own administrative acts (Art. 6); face-to-face activities were permitted to take place in professional environments (Art. 8), which were defined in Article 21 as including public or private companies, industries, commercial or service establishments, and government agencies, provided they were linked to the educational processes described in the Program Pedagogical Project (PPC); exclusively digital collections were authorized for support center libraries (Art. 11); and institutional autonomy to create distance education support centers through the institution’s own administrative act was consolidated, exempting institutions from prior individual authorization by the Ministry of Education (MEC), subject to the Institutional Score (Art. 12).

Lacé et al. (2020) highlight that these regulatory changes were widely celebrated in the private higher education sector, particularly by the Brazilian Association of Higher Education Providers (ABMES), which characterized the update to DE legislation as a true “revolution” in higher education. According to this organization, the changes promoted the de-bureaucratization of the system and shifted quality monitoring to students themselves, as well as to market dynamics and competition among institutions. From this perspective, the regulation of quality in Distance Education came to be conceived predominantly through market relations, to the detriment of State mechanisms for oversight and the assurance of public quality standards.

These measures reveal a movement toward deregulation aligned with the demands previously expressed in the ABED Letter, thereby materializing privatizing interests and consolidating an instrumental, market-oriented conception of quality in distance higher education. This orientation persisted throughout the implementation of the PNE (2014–2024) and was revised only in May 2025 with Decree No. 12,456/2025, under the Lula administration, which established new regulatory parameters for the modality.

An examination of the regulatory trajectory of Distance Education reveals that not all legal provisions operated in the same direction. Between 2005 and 2016, a regulatory framework prevailed that sought to give material expression to the constitutional discourse on the right to education by strengthening State regulation and evaluation and promoting national quality standards. Regulations such as Decree No. 5,622/2005, the Quality Framework for Distance Higher Education of 2003 and 2007, and CNE/CES Resolution No. 1/2016 express a project of DE conceived as an educational modality, socially referenced and integrated into public policies for the expansion of higher education, in line with the objectives of Goal 12 of the PNE.

However, from this period onward, within this same discourse, processes of normative and regulatory flexibilization emerged, driven by the balance of forces shaping the State and by the growing influence of private interests in the educational field. Milestones such as ABED's actions and the subsequent approval of Decree No. 9,057/2017 reveal a shift in educational policy away from guaranteeing the right to education and toward cost rationalization and the market-driven expansion of DE. In this context, the expansion of provision does not necessarily translate into the expansion of rights, since the discourse of democratization of access is re-signified to support processes of massification of provision that are dissociated from effective commitments to the social quality of education.

Conclusions

This study was guided by the central question of the extent to which the regulatory trajectory of Distance Education, since its institutionalization through LDB/1996, has materialized the discourse of democratizing access to higher education while ensuring quality, or, conversely, has contributed to regulatory flexibilization and the commodification of the modality. It also sought to understand how regulations reflect the balance of forces among different State projects and the implications of such disputes for the realization of the right to education.

The analysis of the regulatory trajectory of Distance Education in Brazil demonstrates that the regulation of DE is not a linear, technical, or neutral process but rather an expression of the political, economic, and ideological disputes that permeate the State and the educational field. The practical implementation of policy occurs in a heterogeneous and contradictory manner, reflecting different State projects and continually shaping tensions between the expansion of provision, the guarantee of educational quality, and the realization of the right to education.

Throughout this period, DE has been mobilized simultaneously as a strategy for democratizing access to higher education and as an instrument of expansion guided by logics of cost rationalization and the commodification of education, revealing contradictions between the discourse of democratization and its practical implementation.

It is understood that DE, as a public policy, cannot be analyzed solely on the basis of its normative provisions, but above all through its concrete effects on the organization of educational provision and the education of individuals. In this sense, the study reinforces the need to reestablish a regulatory agenda committed to socially referenced quality, to strengthen the State's role, and to centralize education as a right, so that DE may, in fact, fulfill its social function in the process of democratizing Brazilian higher education.

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