



Decree No. 12,686/2025: Reconfiguration of the National Special Education Policy in Brazil

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Abstract

The trajectory of public policies aimed at Special Education in Brazil is marked by dialectical tensions that reflect the evolution of the social perception of disability and of the social function of the school. Policies are translated into laws and regulations produced through dialogues among many “stakeholders,” whose voices express the struggles, values, and beliefs of society. The evolution of Brazilian legislation is grounded in these “voices,” in international guidelines, and in legal foundations.

The enactment of Decreto nº 12.686, on October 20, 2025 (Brasil, 2025a), which established the National Policy for Inclusive Special Education (PNEEI), and its subsequent adjustment by Decreto nº 12.773, of December 8, 2025 (Brasil, 2025b), represent the culmination of a process of normative maturation that seeks to transcend the idealism of “full inclusion” in favor of a model of “structured inclusive special education.” This article proposes to critically analyze this new legal architecture, drawing on Brazilian constitutional frameworks, international human rights treaties, and the substantial academic output of authors such as Maria Teresa Eglér Mantoan (2003), Rosana Glat and Márcia Denise Pletsch (2012), Enicéia Gonçalves Mendes (2010), Mel Ainscow (2024), and Gary Hornby (2015). The analysis traces the transition from a paradigm centered solely on enrollment to a system focused on qualified permanence, individualized planning, and evidence-based technical-pedagogical support.

Keywords:

Special Education, School Inclusion, Public Policy, Case Study, PAEE and PEI.

Constitutional Foundations and the Evolution of the Brazilian Legal Framework

The right to Special Education in Brazil finds its cornerstone in the Federal Constitution of 1988 (Brasil, 1988), which, in Article 208, subsection III, establishes the State's duty to guarantee specialized educational assistance (AEE) to students with disabilities, preferably within the regular school system. This constitutional precept, although drafted using the terminology of its time, set forth a guideline of integration that would later be refined by Lei nº 9.394/1996, the Law of Guidelines and Bases of National Education (LDB) (Brasil, 1996).

The Federal Constitution (Brasil, 1988), wisely and humanely, guarantees equity and respect for difference; yet, in practice, it formalized specialized educational assistance—mandatory since 1988—which gave rise to the interpretation of the term “preferably,” a term that came to be interpreted as “mandatorily” or “compulsorily,” generating major misunderstandings in the inclusion process, at times resulting in inclusion through exclusion.

Article 58 of the LDB (Brasil, 1996), referring to item III of Article 4 of the LDB, defines Special Education as a modality of specialized schooling that cut across all levels, stages, and modalities, reinforcing the preference for the regular school system, but allowing flexibility by admitting, through the provision of Article 58, §2 of the LDB, assistance in specialized classes and schools when: “...integration into the common classes of regular education is not possible.”

The international foundations emanating from international movements—such as the World Declaration on Education for All, approved at the World Conference on Education for All in Jomtien, the Salamanca Statement, and the Guatemala Convention—strongly influenced the Brazilian legal and even philosophical frameworks.

It is worth emphasizing that the Brazilian normative evolution was profoundly influenced by the United Nations Convention on the Rights of Persons with Disabilities (ONU, 2006), ratified by Brazil with the status of a Constitutional Amendment, following its approval by the National Congress through Decreto Legislativo no 186, of July 9, 2008, and its subsequent promulgation by Decreto nº 6.949, of August 25, 2009 (Brasil, 2009). Article 24 of this UN Convention (2006) consolidated the principle of an inclusive educational system, assigning to States the obligation to ensure reasonable accommodations and the necessary support so that persons with disabilities are not excluded from the general education system.

In 2015, the Brazilian Inclusion Law (LBI), Lei nº 13.146/2015 (Brasil, 2015), was enacted, detailing these rights, prohibiting private schools from charging additional fees, and requiring the provision of school support professionals. This law, known as the Statute of the Person with Disability, became the most significant legal advance in Brazil's inclusion process, changing the expectation of outcomes, allowing different curricular pathways, and respecting students' characteristics, interests, and learning needs.

The formulation by the Ministry of Education (MEC) of the National Policy for Special Education from the Perspective of Inclusive Education of 2008 (PNEEPEI-2008), grounded in Decreto nº 6.571, of September 17, 2008, which governed specialized educational assistance, operated as the main driver of schooling within the common classroom for nearly two decades. Under this policy, Brazil experienced exponential growth in the enrollment of students with disabilities in regular education, but it also faced severe criticism regarding the lack of technical support for teachers and the absence of pedagogical planning instruments that would ensure effective learning. This context exposed the lack of

adequate initial training for classroom teachers and the absence of specialized professionals to promote inclusion through access to the curriculum and participation in the learning process. Thus, teachers were unfairly held responsible for the pseudo-inclusion generated by compulsory enrollment in common classes, with automatic progression and limited evidence of meaningful learning. It is worth noting that Decreto nº 6.571/2008 was revoked by Decreto nº 7.611/2011, which remained in force until 2025.

The current scenario, inaugurated by Decreto nº 12.686, of October 20, 2025 (Brasil, 2025a), now in force, which establishes the National Policy for Inclusive Special Education and the National Network for Inclusive Special Education (revoking the previous Decreto nº 7.611, of November 17, 2011, which governed special education and specialized educational assistance), seeks to address these gaps by institutionalizing a structured support network and mandatory planning processes.

The Full Inclusion Paradigm and the Influence of Mantoan

The 2008 policy was strongly influenced by the conceptions of Maria Teresa Eglér Mantoan (2003), who advocates school inclusion as a movement of radical and systematic reform of the common school. The educational community embraced the ideas of Mantoan (2003), for whom inclusion is incompatible with integration, since the latter presupposes that the student must adapt to the school, whereas inclusion requires the school to transform itself in order to welcome everyone, without exceptions. The author argues that difference is a value intrinsic to the human condition and that the school must be a space for coexistence with otherness, overcoming the model of pedagogical homogenization.

This perspective of "full inclusion," implemented in Brazil, was fundamental for dismantling historical segregating practices, ensuring that students who had previously been kept in sheltered environments could coexist with their peers in the mainstream education system. However, the practical implementation of this ideal revealed complex challenges. Rosana Glat and Márcia Denise Pletsch (2012) warned that the mere physical presence of the student in the classroom does not guarantee inclusion. Glat (2012) argues that inclusion requires collaborative planning and continuous specialized support, without which the student runs the risk of suffering an "exclusion within the classroom," remaining on the margins of collective pedagogical activities, generating a contradictory state of excluding inclusion.

Over the years, researchers such as Mônica Kassir and Claudio Roberto Baptista (Kassar, 2014; Baptista, 2018) have pointed out that the almost exclusive emphasis on the "place" of enrollment (the common classroom) often resulted in the weakening of special education as a modality that should guarantee the support and resources necessary for inclusion. This produces a tension between Mantoan's ideal (2003) and the real conditions of infrastructure. In this way, the situation in Brazilian schools generated a field of disputes that culminated in the need for new regulation that would balance the right to coexistence with the right to specialized learning.

For a fuller understanding of the changes proposed by Decreto 12.686/2025 (Brasil, 2025a) and amended by Dec. nº 12.773/2025 (Brasil, 2025b), it is important to consider the comparative dimension between the two paradigms:

Table 1

Comparative Dimension	Full Inclusion Paradigm (PNEEPI 2008)	Structured Inclusion Paradigm (PNEEI 2025)
Focus of Action	Enrollment and access in the common classroom.	Permanence, support, and learning.

Role of AEE	Complement or supplement, often isolated from the school context.	Centrality in planning articulated with the mainstream classroom and with the classroom teacher.
Instruments	Little formalization of national individual documents.	Mandatory Case Study, PAEE, and PEI.
Identification	Frequently dependent on a medical report for resources.	Based on the social model through the Case Study, without a mandatory medical report and valuing pedagogical assessment.
Training	Generic continuing education.	Requirement of specific specialization (360h for AEE). Specific course (180h for School Support)

Gary Hornby's Theory of Inclusive Special Education

Decreto nº 12.686/2025 (Brasil, 2025a) represents a paradigm shift aligned with the perspective of Inclusive Special Education, proposed by Gary Hornby (2015). Hornby (2015) argues that the polarization between advocates of "full inclusion" (who seek the end of all special schools) and advocates of "special education" (focused on intensive instruction) is harmful to students. He proposes a synthesis that combines the human rights values of inclusion with the evidence-based instructional strategies of special education.

For Hornby (2015), educational policy must guarantee a "continuum of supports," recognizing that, although the majority of students can and should be educated in the common classroom with adequate support, a small share may require more intensive and specialized environments at certain moments in their education journey. The author criticizes what he calls the "zombies" of Special Education—persistent myths that do not die, even in the face of contrary evidence, such as the idea that the place of instruction is more important than the quality of the instruction received.

The new Brazilian decree incorporates this vision by reaffirming the common school as the priority, while at the same time reestablishing the legitimacy of specialized services and schools on an exceptional basis, always grounded in a rigorous pedagogical—rather than merely administrative—analysis.

In this regard, the perception of the legal and political implications proposed in §3 of Article 1 is relevant, as it recognizes inclusion as a right rather than an imposition, by establishing: "... the special education public has the right to be included in common classes and schools."

In truth, the legitimacy and the need for specialized services have always been ensured by the Federal Constitution (Brasil, 1988), the LDB (Brasil, 1996), the LBI (Brasil, 2015), the ECA, and by Decrees and Resolutions of the CNE. Today, this right has been strengthened by political will, in response to social demands. We are experiencing a historic moment, validating this approach, which seeks to

ensure that no student is "left behind" in a system that prioritizes form over content.

The Case Study and the Demedicalization of Disability

One of the most innovative pillars of Decreto nº 12.686/2025 (Brasil, 2025a) is the institutionalization of the Case Study as a central tool for identification and planning. Article 11, §7, establishes a historic milestone by determining that the provision of AEE does not depend on the presentation of a medical report. This provision materializes the social model of disability, advocated by the UN Convention (ONU, 2006), which defines disability not as an organic "defect" but as the result of the interaction between physical, mental, or sensory impairments and the barriers imposed by the environment.

The Case Study must be a collaborative process involving the student, their family, the pedagogical team, and, when necessary, the social protection network. According to the research of Enicéia Gonçalves Mendes (2010), assessment for inclusion must be pedagogical and functional in nature, focusing on the student's competencies and on the barriers that impede their access to the common curriculum.

The stages of the Case Study outlined by the decree and by the critical literature include:

- Identification of Barriers: Detailed analysis of architectural, communicational, methodological, and attitudinal obstacles.
- Context Analysis: Understanding of the student's family and socioeconomic reality.
- Definition of Strategies: Planning of pedagogical interventions and accessibility resources.
- Selection of Resources: Identification of assistive technologies, adapted furniture, or alternative communication systems.

This change neutralizes the "medicalization" of the educational process, in which the medical report often functioned as an immutable destiny or an exclusive passport to rights, restoring to the school the autonomy to decide on the necessary pedagogical supports, based on direct observation of the student's performance, as well as on learning assessments and other information about the student.

In this context, it is worth emphasizing that the mandatory nature of the Case Study, PAEE, and PEI documents may create a risk that they will become mere bureaucratic forms, devoid of effective pedagogical reflection.

PAEE and PEI: From Abstract Right to Structured Planning

So that inclusion ceases to be merely rhetorical, Decreto nº 12.686/2025 (Brasil, 2025a) makes the Specialized Educational Assistance Plan (PAEE) and the Individualized Teaching Plan (PEI) mandatory. Both documents derive from the Case Study and constitute the official record of the school's effective commitment to the student's learning.

The Specialized Educational Assistance Plan (PAEE)

The PAEE organizes the activities of the AEE teacher, both in the multifunctional resource room and in

support within the mainstream classroom. It must detail the accessibility resources, the frequency of assistance, and the specific objectives for eliminating the barriers identified in the Case Study. As pointed out by Glat and Pletsch (2012), the PAEE is essential so that support is not improvised and so that there is a clear articulation between the assistance provided by a specialist or specialized institution and the general curriculum of the common school.

The Individualized Teaching Plan (PEI)

The PEI had already been established as a mandatory document and an instrument that enhances curricular accessibility since 2023, being included as guidance or recommendation in the Opinion of the National Education Council CNE/CP nº 50/2023 and in some state and municipal regulations.

This document, part of the Guiding Directives on Autism, was drafted amid great struggle and political polarization, highlighting points such as the guarantee of learning, collective construction, curricular accessibility, and individualized support.

The PEI is the instrument that operationalizes inclusion in the common classroom. Enicéia Gonçalves Mendes (2010) defines the PEI as the "rudder" that guides the student's school trajectory, ensuring that curricular adaptations do not mean an impoverishment of content, but rather a personalization that facilitates access to knowledge. Mendes (2010) argues that the PEI must be developed collaboratively, through "collaborative teaching" or co-teaching, in which the classroom teacher and the special education teacher jointly plan the goals and the forms of assessment of learning and of individual progress.

Table 2

PEI Component	Technical Description
Short-Term Goals	Immediate objectives for the bimester, focused on specific competencies.
Long-Term Goals	Learning expectations for the end of the school year, aligned with the BNCC.
Curricular Adaptations	Modifications to materials, methodologies, and task-completion times.
Differentiated Assessment	Success criteria based on the student's individual progress relative to themselves.
Monitoring	Continuous record of advances and of the need for adjustments in planning.

The mandatory nature of these instruments responds to the historical gap identified by researchers such as Mendes and Ainscow (Mendes, 2010; Ainscow, 2024), ensuring that inclusion is accompanied by concrete indicators of the student's pedagogical success.

Mel Ainscow and the Perspective of Equity and Inclusion in the System

Ainscow (2024) proposes four principles for the development of inclusive systems, which provides a framework for the inclusion, support, and monitoring of students:

- **Presence:** Ensuring that all students are physically present in their community school. Direct access to teachers, to the curriculum, to materials, and to differentiated methodologies.
- **Participation:** Ensuring that students are not only present, but that they actively participate in social and pedagogical activities, according to their possibilities.
- **Learning:** Focusing on real academic progress and on the acquisition of competencies, at their own pace, in their own time, according to their potential.
- **Confronting Barriers:** Constantly scrutinizing the system to identify who is being marginalized or excluded—identifying and investing in ways of overcoming barriers.

Decreto nº 12.686/2025 (Brasil, 2025a) incorporates this "inclusive turn" by establishing the National Network for Inclusive Special Education, which aims to mitigate regional disparities and foster a common language of inclusive practice among teachers. Ainscow's collaborative approach (2024), which values teachers' knowledge and reflection on practice, is fundamental so that the PEI and the PAEE do not become inert bureaucratic documents, but are instead continually updated and improved.

Professional Training and the Regulation of School Support

The effectiveness of the 2025 PNEEI depends intrinsically on the quality of the training of the professionals involved. The decree fills a normative gap by regulating the minimum workload of specific training for the different professionals of Special Education.

The AEE Teacher

To work in the AEE, the decree establishes the requirement of initial teacher training (a teaching degree) supplemented by a specific specialization in inclusive Special Education with a minimum workload of 360 hours. This measure aims to professionalize the role, ensuring that the teacher has the necessary knowledge of assistive technologies, alternative communication, and curricular differentiation strategies, thereby fulfilling their guiding mission toward the other professionals involved in the inclusion process.

The School Support Professional

One of the greatest controversies in Brazilian school inclusion concerns the figure of the "school support" professional, established by the LBI (Brasil, 2015). This professional moved through schools without a defined identity, acting as a "monitor," "intern," "assistant," or "caregiver," often taking on pedagogical tasks without any specific preparation.

Decreto nº 12.686/2025 (Brasil, 2025a) establishes that the school support professional must have a secondary-level education and specific continuing education of at least 180 hours. Their duties are clear: support for communication, feeding, hygiene, mobility, and assistance in school activities, always under the guidance of the classroom teacher and in accordance with the PEI.

It is necessary to better understand the training requirements and the functions of these professionals:

Table 3

Professional	Training Requirement (Decreto 12.773/2025)	Main Function
AEE Teacher	Teaching Degree + 360h Specialization	Identify barriers, provide AEE, and collaborate on the PEI.
Support Professional	Secondary Level + 180h Training	Support in basic care and mediation of activities.
Libras Translator/Interpreter	Specific training in Libras/Portuguese	Ensure linguistic accessibility for deaf students.

This regulation strengthens the technical dimension of the policy and reduces the improvisation that characterized many inclusion experiences in recent decades.

The Role of the APAEs and the Flexibilization of Decreto nº 12.773/2025

The transition to the new model did not occur without significant political tensions. The original text of Decreto nº 12.686 (Brasil, 2025a) provided that AEE in specialized centers would occur only on an "exceptional basis," which provoked a strong reaction from philanthropic institutions such as the APAEs. These entities, which historically filled the State's absence in specialized assistance, feared the depletion of their services and the loss of public funding.

In response to this scenario and after dialogues with various sectors, the government issued Decreto nº 12.773, on December 8, 2025 (Brasil, 2025b), making significant adjustments to the policy. The main change was the reintroduction of the term "preferably" with respect to the regular school system, softening the strict obligation contained in the initial version. The new text also explicitly ensured the technical and financial support of the Public Authorities for private non-profit specialized institutions and authorized the formalization of agreements for the provision of special education for public school systems.

This change was received in an ambivalent manner. Organizations linked to the radical inclusion movement, such as the RREI (Rede Regional pela Educação Inclusiva), expressed concern that "preferability" might signify a setback in relation to the CDPD, opening the door to the maintenance of segregated systems. On the other hand, managers of the APAEs, Pestalozzi, and other specialized entities, as well as the families of students with multiple and severe disabilities, saw the change as a guarantee that specialized support will continue to be available while the mainstream school does not yet have the conditions necessary to provide such support on a broader scale.

Funding and Governance: The Challenge of Materialization

The sustainability of the new National Policy for Inclusive Special Education depends on robust funding mechanisms. The 2025 decree establishes that the Union will support States and Municipalities

through the Articulated Actions Plan (PAR) and the Direct Money to the School Program (PDDE). A crucial innovation brought by Decreto nº 12.773/2025 (Brasil, 2025b) is the reaffirmation of the distribution of FUNDEB resources taking into account "dual enrollment"—that is, the student counts toward resources both for the regular school where they attend the common class and for the institution (public or affiliated) where they receive the AEE.

However, critics such as Claudio Roberto Baptista and Mônica Kassir (Baptista, 2018; Kassir, 2014) point out that the policy still lacks a clearer definition of the Specific Student-Quality Cost (CAQ-E). Without funding that guarantees not only the enrollment slot but also the quality of support (specialized teachers, assistive technology, adapted materials), there is a risk of perpetuating regional inequities. The National Network for Inclusive Special Education will have the challenging role of monitoring these resources and ensuring that funding reaches schools and frontline services, especially in small municipalities with lower revenue-collection capacity.

Specialized Institutions and Private School Systems

When it comes to funding, only public systems are supported by the MEC, through FUNDEB, PAR, and PDDE—resources monitored by the National Network for Special Education.

Private schools, by virtue of the LBI (Brasil, 2015), offer schooling and specialized services as forms of support, without additional charges.

Brazilian legislation establishes that the public school may provide AEE in its resource rooms or delegate this function to a specialized public entity or a specialized private non-profit entity, remunerating the services with the FUNDEB of the second enrollment, with the government therefore acting as the funder of the process.

We must consider that the AEE services described in Brazilian legislation are State policies, with the government acting as funder. Thus, they do not establish a mandatory legal support for the provision of AEE that imposes the same legal obligations on private schools.

It is worth recalling that the LBI (Brasil, 2015), in its Article 27, consolidates the need for institutions' inclusion policy to be institutionalized in the PPP, establishing the identity of the school inclusion offering.

In this context, nothing prevents private school systems from creating partnerships with specialized institutions, referring the student—already enrolled in the common school—to the AEE in the opposite school shift, including work with specialized professionals.

Decreto 12686/25 (Brasil, 2025a) explicitly reintroduces the legitimacy of public or private specialized institutions, once again placing on the debate table:

- “How can intensive support be offered to students with high or greater complexity disabilities without removing them from regular school community life?”

The prohibition of additional charges brings concrete risks to the inclusion process in private schools, due to the pressure of the schools' structural limits, high costs, and teacher training, generating an alibi for shifting the school's responsibility with respect to the inclusion process.

Thus, it is essential that the private school be able to build an articulated complementary model, in which the common school is, effectively, the priority space for schooling.

So that the new policy does not produce a setback, the common school must be the center of the student's school life, linking educational work to enrollment, assessment, coexistence, curriculum, and

certification, in an integral and integrating manner.

The private school system may coordinate with specialized institutions or professionals in the provision of AEE in a complementary manner, in the opposite school shift, in accordance with the Case Study, with documented pedagogical assessment articulated with the PEI and permanent monitoring by the regular school, whenever it is in the student's interest or need, "whenever the learning process so recommends."

When the specialized private institution is non-profit, the family may formalize the partnership through donation agreements, using technical cooperation covenants.

The alternatives for partnership among private systems go beyond the AEE, with the possibility of consulting, continuing education for professionals, and intensive support projects for students who present high functional complexity.

In all cases, the partnership must reach three dimensions: enrollment of the student in the common school, complementary enrollment in the AEE of the specialized institution, articulated with the school team, and participation of the family as a support network for the student.

The greatest risk is not legal, but pedagogical.

In this respect, Gary Hornby (2015) argues that the continuum of supports is only legitimate when the specialized assistance broadens participation and develops a sense of belonging.

Thus, regardless of the format of the partnership between the private school and the specialized institution, certain precautions are necessary:

- Referral to the specialized institution must be the result of the case study;
- The assistance must be articulated with the PEI of the common school, with formal feedback;
- The PEI must be developed and monitored by the common school;
- The school's technical coordination must monitor the attendance, participation, and outcomes of the specialized assistance;
- The objectives must be time-bound, with periodic evaluations and family participation.

Critical Analysis: Challenges and Vigilance in Implementation

The transition from the "full inclusion" paradigm to "structured inclusive special education" represents a technical maturation of Brazilian public policy. However, the implementation of Decreto nº 12.686/2025 (Brasil, 2025a), which institutes the National Policy for Inclusive Special Education and the National Network for Inclusive Special Education, requires constant ethical and technical vigilance to avoid practical distortions.

The main challenges identified include:

- **Case Study Protocols:** The absence of an adequate national protocol may generate superficial or discrepant assessments across different schools and school systems, compromising the equity of the system.
- **Risk of Re-segregation:** The recognition of specialized schools and the "preferability" clause must not be used as an administrative justification for transferring students with more complex support needs out of the regular system due to a lack of investment in common schools.
- **Quality of Training:** Although the 360-hour workload for the AEE is an advance, it is

still considered the minimum threshold given the complexity of Autism Spectrum Disorder (TEA) and of multiple disabilities, as well as of neurodivergences and neurodevelopmental disorders.

- **Intersectoral Articulation:** The effectiveness of the PEI depends on a genuine dialogue with the health and social assistance fields, which has historically been a critical bottleneck in Brazilian public management.

The introduction of Universal Design for Learning (DUA) as a theoretical framework is a well-placed bet for transforming the common classroom, mainly by serving as the basis for the elaboration and development of the PEI, in view of the need to strengthen the idea that differentiation and personalization are not segregation; however, its application requires time for collaborative planning among teachers, something that is often scarce in current teaching workloads.

Conclusions and Perspectives

Decreto nº 12.686/2025 (Brasil, 2025a), complemented by Decreto nº 12.773/2025 (Brasil, 2025b), marks the beginning of a new era for Special Education in Brazil. This phase does not represent the abandonment of the inclusive ideal, but rather its realignment around pragmatic, technical, and legally established foundations. In light of this reality, we need to identify strategies capable of preventing flexibilization from becoming an “alibi” for the common school’s abdication of responsibility.

By formalizing the Case Study, the PAEE, and the PEI, the Brazilian State recognizes that inclusion requires more than good intentions: it requires structured planning, specific resources, and qualified professionals.

The National Network for Inclusive Special Education must be anchored in objectives and implementation targets of the National Special Education Policy, from a federal perspective, articulating and mobilizing the health and social assistance fields to serve the expansion, strengthening, and support of the education field for the special education public.

The success of this policy will depend on the capacity to transform the normative text into effective pedagogical practice in the daily life of schools. This requires adequate funding, high-density continuing education, and, above all, the ethical commitment to see difference as an opportunity for learning for all, and not as a problem to be solved.

Structured Inclusive Special Education, inspired by the continuum of supports and by demedicalization, offers a promising path for Brazil to consolidate an educational system that is at once equitable and of excellent quality, and that guarantees each student the right to learn and to belong fully to society, learning continuously, throughout life.

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