



Between Norms and Practices in the National Policy on Special Inclusive Education: The Update of Decree No. 12,686/2025 and the Challenges of Inclusion in the LDB No. 9,394/1996

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Abstract

This paper examines Decree No. 12,686/2025, which establishes the National Policy on Special Inclusive Education (PNEEI), as well as the changes introduced by Decree No. 12,773/2025, in light of Law No. 9,394/1996 (LDB) and Decree No. 7,611/2011—the latter revoked by the new 2025 regulation. The study was conducted through a comparative documentary analysis, from both legal and educational perspectives, drawing on a detailed reading of the legal provisions and on the incorporation of recent school statistics. The documentary comparison reveals that the new decree advances the formalization of the inclusion policy, reinforces the centrality of enrollment in mainstream classes, promotes structural changes within special education, and redefines the responsibilities of institutions within school systems. Although no direct incompatibilities with the LDB are found, an interpretive shift is observed in the use of the term "preferably," which comes to display less flexibility in its practical application. Within the context of Brazil's structural inequalities, such a normative expansion becomes complex. The steady increase in special education enrollments, which surpassed 1.7 million in 2023, and the prevalence of inclusion in mainstream classes confirms that the policy was already expanding before the new regulation. The current challenge lies in reconciling the growing normative responsibilities and federative cooperation with the real material conditions of schools, especially in scenarios of overcrowded classes and limited professional support.

Keywords:

National Policy on Special Inclusive Education, Decree No. 12,686/2025, Law of Guidelines and Bases of Education No. 9,394/1996

INTRODUCTION

The establishment of the National Policy on Special Inclusive Education through Decree No. 12,686/2025 (BRASIL, 2025) does not represent a starting point for school inclusion in Brazil, since this process has been consolidated over recent decades. Nevertheless, the norm exerts significant influence on the perception and application of this principle. The 1988 Federal Constitution already established the State's duty to guarantee specialized educational assistance to persons with disabilities, "preferably within the mainstream school system" (art. 208, III).

Law No. 9,394/1996 (LDB) incorporated this guideline by defining, in Article 58, that special education must be offered primarily within the mainstream system. Thus, there is a consolidated legal foundation that guides the assessment of the new decree. Moreover, the International Convention on the Rights of Persons with Disabilities (Decree No. 6,949/2009), which holds the status of a constitutional amendment, and the Brazilian Inclusion Law (LBI, 2015) shifted the debate from a welfare-based perspective to a paradigm grounded in rights and in the biopsychosocial model.

Decree No. 12,686/2025 draws on this robust legal foundation to specify procedures, responsibilities, and implementation instruments. However, the regulation is not normatively neutral: by strengthening the principle of inclusion, the decree affects the interpretation and practical scope of the LDB, particularly regarding the flexibility of the term "preferably." What once functioned as a flexible clause now reflects an expectation of the centrality of the inclusive classroom.

The subsequent publication of Decree No. 12,773/2025, which occurred after mobilizations by civil society, specialized institutions, and sectors of parliament, suggests that the normative restructuring generated tensions that required immediate political adjustments. In this context, the present study uses comparative documentary analysis to understand the relationship between regulatory changes and the reality of educational institutions. Although the legislative expansion aims to strengthen rights, it imposes responsibilities on public school systems that do not always have the material and structural conditions to meet them. This tension, at times concealed in normative documents, becomes evident in the everyday practice of schools and in the country's regional disparities.

This understanding is corroborated by Almeida (2025):

This tension between the normative ideal and social reality becomes even more complex in light of the heterogeneity of the Brazilian educational system. Public school systems coexist with regional inequalities, structural precariousness, and a lack of teacher training. In their daily work, teachers face practical dilemmas that the decree does not resolve: the absence of Libras interpreters, the lack of accessible pedagogical materials, overcrowded classes, and the absence of specialized technical support. Thus, the discourse of inclusion, although politically necessary, runs the risk of turning into rhetoric without any effective correspondence in school practices. (p. 3)

METHODS

This study adopts a qualitative approach, of an exploratory and descriptive nature, grounded in a literature review and in the comparative analysis of documents (Gil, 2002). The research focuses on Articles 58 to 60 of the LDB (BRASIL, 1996) and on the provisions of Decree No. 12,686/2025, taking

into account the changes introduced by Decree No. 12,773/2025.

An analytical reading of the versions of the decrees and of the text of the LDB was carried out in order to identify changes in wording that alter political expectations and responsibilities. The interpretive approach sought to identify conceptual changes and practical implications, drawing on statistical data from the Instituto Nacional de Estudos e Pesquisas Educacionais Anísio Teixeira (INEP, 2024), which reveal the increase in enrollments of students in the target population of special education in mainstream classes. This approach allowed for a critical review of the historical and legal trajectory of the topic in the country, without disregarding the reality found in the daily life of the educational system.

RESULTS

The comparison between the LDB and recent data reveals significant developments. The law defines special education as an offering "preferably within the mainstream system," providing for specialized support services (art. 58) and the possibility of special classes or schools in specific cases. Analyzing the 2023 School Census (INEP, 2024), it is observed that special education surpassed 1.7 million enrollments in basic education.

Of the total number of students, 53.7% have an intellectual disability (952,904), followed by students with Autism Spectrum Disorder (ASD), who account for 35.9% (636,202). Other groups include physical disability (163,790), low vision (86,867), hearing impairment (41,491), giftedness or high abilities (38,019), deafness (20,008), blindness (7,321), and deafblindness (693), in addition to 88,885 students with multiple disabilities.

Although physical inclusion in mainstream classes is predominant, quantitative growth does not guarantee structural homogeneity. The increase in enrollments occurs in a context of regional disparities and challenges in the organization of Specialized Educational Assistance (AEE). Decree No. 12,686/2025 reaffirms enrollment in mainstream classes as the norm and details obligations that were once generic in the LDB, reducing the room for ambiguous interpretations.

Nevertheless, the reception of the norm was not unanimous. Almeida (2025) observes, regarding the structure of the document:

Its structure [...] reveals an effort at systematization, but also a programmatic character [...]. The decree is organized around central axes: (i) the principles and objectives of the inclusive policy; (ii) guidelines for the training of teachers and support professionals; (iii) the creation of the Rede Nacional de Educação Especial; (iv) the guarantee of accessibility and support resources; and (v) mechanisms for management and federative cooperation. This arrangement seeks to ensure an integrated approach, but its wording reveals, at several points, generalizations that hinder the implementation and monitoring of the proposed actions. (p. 6)

The publication of Decree No. 12,773/2025, within a short period, introduced adjustments to strengthen technical and financial support for private nonprofit and specialized institutions. This suggests that the original text substantially affected the established institutional order, requiring a political recalibration in order to reconcile the emphasis on inclusion with the reality of existing institutions.

A critical point is the modulation of the adverb "preferably." In law, such terms modulate the intensity of the obligation. Historically, it allowed the coexistence of the mainstream school and specialized institutions. With the new decree, although the word remains, the normative horizon becomes more restrictive, raising the centrality of the mainstream school to a more binding level.

As Araújo et al. (2025) assert regarding the financial aspect:

Although the decree mentions the possibility of scholarships, transfers, and the acquisition of materials, it does not define criteria for budgetary distribution nor establish specific long-term funding sources. The absence of financial parameters may create difficulties in operationalizing the network, especially in municipalities with lower fiscal capacity. (p. 9)

The classic literature reinforces that inclusion requires more than physical presence. Mantoan (2015) highlights the need for curricular and methodological reorganization, while Glat et al. (2007) emphasize the ongoing dialogue between special education and the mainstream school. Without clear parameters for infrastructure and funding, a gap emerges between the legal framework and what is feasible in practice.

The comparative tables below systematize these changes:

Table 1

Comparative table between the LDB (Brasil, 1996), specifically its Articles 58–60, and Decrees No. 12,686/2025 and No. 12,773/2025.

Normative axis	LDB (Law No. 9,394/1996)	Decree No. 12,686/2025	Decree No. 12,773/2025	Structural implication
Provision within the mainstream system	"Preferably within the mainstream system" (art. 58)	Right to enrollment in mainstream classes with supports	Maintains the wording with institutional adjustments	Reduction of interpretive latitude
Specialized assistance	Support services in the mainstream school (§1) and the possibility of specialized classes (§2)	Complementary AEE structured by a specific plan	Strengthened support for specialized	Reorganization of the institutional role
Teacher training	Teachers with adequate specialization (art. 59, III)	Definition of a minimum workload	Maintains the parameters	Normative densification without explicit material
Institutional support	Technical and financial support for institutions (art. 60)	Indirect mention in the original version	Explicit inclusion of financial support	Political correction of the initial tension

Source: prepared by the authors (2026).

Table 2

Normative development of special education: Decree No. 7,611/2011 × Decree No. 12,686/2025 (amended by Decree No. 12,773/2025)

Axis of analysis	Decree No. 7,611/2011	Decree No. 12,686/2025 (and 12,773/2025)	Observed historical trend
Conception of inclusion	Consolidates AEE as complementary to regular schooling	Reaffirms AEE, complementing and detailing instruments such as the individual plan	Continuity with greater normative density
Centrality of the mainstream class	Emphasis on enrollment in the mainstream system, maintaining coexistence with specialized institutions	Affirms the right to enrollment in mainstream classes with a guarantee of supports	Expansion of the centrality of the mainstream school
Specialized institutions	Provision of technical and financial support	Less explicit initial wording; the subsequent amendment reinforces support	A movement of tension and subsequent recomposition
Teacher training	Provision of adequate training, without detailing the workload	Establishes minimum parameters for specific training	Greater formalization of the requirement
Implementation structure	Federative cooperation and technical support	Normative expansion without an equivalent structural specification	Intensification of the normative expectation

Source: prepared by the authors (2026).

DISCUSSION

Normative Consolidation and Interpretive Change

When comparing the LDB with the new decrees, a movement toward the densification of the norm becomes evident. The LDB allowed for a pragmatic balance between inclusive guidelines and institutional adjustments. Decree No. 12,686/2025 structures the right in a more detailed manner, introducing instruments such as the Special Education Support Plan. Although there is no rupture with the LDB, the interpretation of the term "preferably" shifts toward a greater degree of obligation, aligning itself with

international commitments.

Educational Federalism and Structural Inequality

The effectiveness of the normative changes runs up against the federative organization. The LDB provides for technical and financial support from the Union, but the provision of primary education falls mainly on the municipalities, which have disparate fiscal and operational capacities. The absence of national infrastructure parameters and of automatic mechanisms for budgetary compensation overloads local systems, turning inclusion into a challenge of practical sustainability.

Discrepancy Between Normativity and School Reality

The centrality of the mainstream school requires constant coordination between classroom teachers and specialists, demanding institutional time and joint planning. Without material guarantees proportional to the increase in legal requirements, there is a risk of a "formal inclusion" that does not translate into pedagogical quality. The normative sequence (the decree and its immediate amendment) reflects that the policy is the product of negotiations between the normative ideal and the pre-existing institutional structure.

Expansion of Responsibilities

The terminological change in Decree No. 12,773/2025—from students who "are included" to students who "have the right to be included"—reinforces the ownership of the right. The pedagogical formalization, based on the case study and on binding individual plans, seeks to better structure AEE. However, the everyday school routine, marked by staff shortages and high demand, requires that normative density be accompanied by continuous institutional support.

CONCLUSÃO

The comparative analysis between Law No. 9,394/1996 and the recent decrees indicates that there was no rupture, but rather an increase in the intensity of the National Policy on Special Inclusive Education. The norm details responsibilities and instruments, reaffirming the mainstream school as the primary locus of learning.

Nevertheless, the effectiveness of this normative consolidation depends on the balance between the proclamation of rights and the conditions of feasibility. Brazilian federalism requires that states and municipalities, with limited resources, operationalize complex federal guidelines. Data from INEP (2024) confirm that physical inclusion is a consolidated reality (91% in mainstream classes). The contemporary challenge has shifted from access to the quality of the educational experience.

Inclusion is not sustained solely by the precision of the legal text; it requires the articulation of planning, teacher training, and structural support. The policy is still undergoing a process of maturation, and its effectiveness will be measured by its capacity to convert normative requirements into real conditions for teaching and learning in Brazilian classrooms.

In contrast to the model established in Brazil, other ideas are emerging, such as those proposed by the researcher Lacerda (2023), who questions the policy of full inclusion adopted in Brazilian schools, pointing out challenges and misconceptions in the country's inclusive education model, caused by the harms resulting from the lack of adequate infrastructure and support for children and adolescents with specific educational needs.

Furthermore, the scholar argues that the inclusion model adopted in Brazil, endorsed by the National Policy on Special Inclusive Education (PNEEI), ignores the individual needs of learners, especially those with disorders such as Autism and Intellectual Disability. Moreover, he criticizes the lack of teacher training and the overcrowding of classrooms, which make impossible the individualization of instruction that is essential to the development of these students. He reinforces that the improvement of education passes through the organization of a system that values both plurality and the adaptations needed to meet the specific demands of each learner.

It is clear that, despite the legal advances, there are still many impasses to be overcome between what the legislation advocates and the practical-pedagogical reality. It is therefore necessary to open a dialogue among families, schools, educational administrators, political agents, and those responsible for public authority, so that the real needs are better understood and then fully met, in such a way that the legislation reflects concrete reality rather than confining itself to merely theoretical perspectives, often far removed from the truth.

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