

Legal frameworks of early childhood education in Brazil



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ABSTRACT

This article presents the main legal determinations regarding early childhood education in Brazil, especially Brazil's 1988 Federal Constitution, The Statute of Child and Adolescent, The Law of Directives and Basis for National Education, The National Curriculum for Early Childhood education and The National Curricular Guidelines for Early Childhood education. It makes no pretense of being an exhaustive review of the theme, but to highlight important legal determinations for a better understanding of early childhood education in Brazil, as well as to highlight the relevance of this knowledge of legal determinations for the practices of professionals on this level of education.

Keywords: Childhood education, Legislation, Legal determinations.

1 INTRODUCTION

1.1 FEDERAL CONSTITUTION

With the Federal Constitution of 1988, it was established as a duty of the State to guarantee education for children from zero to five years old, in the formal institutional system, affirming early childhood education as the first stage of basic education. Based on this definition, new legal frameworks have emerged in order to integrate daycare centers and preschools into the educational sector, such as: Child and Adolescent Statute (Law No. 8,069, of July 13, 1990), Law of Guidelines and Bases of National Education (Law No. 9,396, of December 20, 1996), National Curriculum Guidelines for Early Childhood Education (2010), National Education Plan (Law No. 13,005 of June 25, 2014), among others.

With the right to public and quality education assumed by the State and provided for in the Federal Constitution, the child is recognized as a de facto and de jure citizen, a socio-historical and cultural subject to which a political-pedagogical practice must be directed that considers it integrally in its physical, emotional and cognitive scope, breaking with the sanitarian and assistentialist models previously in vogue.



The first measures taken with regard to early childhood education in this context were kindergartens and training courses for teachers in this area. Located in the centers of the main cities (Rio de Janeiro and São Paulo), these institutions were attended mainly by the middle and upper classes.

However, to present a child proposal to the National Constituent Assembly, the National Child and Constituent Commission (CNCC) was created, formed by social organizations that had an interest in the rights of the child, as well as some ministries: Education, Health, Social Security and Assistance, Culture, Labor, Planning. All this movement was the initial generator of broad debates on the issue and the vision of the child that one had at the time.

Inserted as a citizen, the constitution defined new relations between child and State, and the daycare center is now inserted in the chapter of education. Thus, the child is a subject of rights mentioned in the Constitution and guaranteed primarily by the family, society and the State. In addition to basic rights such as life and food, he is also mentioned the right to education, in solidarity with the right of parents or guardians up to the age of six, as well as protection against any cruelty.

However, a change occurred in Constitutional Amendment No. 53/2006 (BRAZIL, 2006a) reducing from six to five years the period of early childhood education, since, in 2005, the beginning of compulsory elementary education had been instituted at the age of six.

For the organization to meet this constitutional demand, there must be a political-administrative decentralization, where the execution of the programs is the responsibility of state and municipal, while the elaboration of the general norms is in charge of the federal one. And it also cedes the formulation of policies and control of all actions to popular representative organizations.

However, it is urgent to emphasize that the autonomy given to the municipality is not synonymous with self-sufficiency, a fact consolidated by the principle of collaboration, ensuring that each entity assumes its respective competences.

1.2 STATUTE OF THE CHILD AND ADOLESCENT

According to the Statute of the Child and Adolescent, a child is considered to be a person up to twelve years of incomplete age and an adolescent is considered to be between twelve and eighteen years of age. Also according to this law, it is the duty of the family, the community, society in general and the public power to ensure, with absolute priority, the realization of the rights related to the integral protection of the Right to life, food and health; Personal and Social Development; Education, Professionalization, Culture, Leisure and Sport; o Respect and Psychological and Moral Physical Integrity; the Right to freedom, to family and community dignity.



Children and adolescents must be protected because they represent the future of the family, the people and humanity. Moreover, they do not have the means to meet their basic needs on their own and do not know their rights.

The condition of subject of rights is illuminated by the concept of the person in a peculiar condition of development. This means that rights do not apply to children, adolescents and adults in the same way, in each condition of development the right assumes a configuration. The child, in the offense, is irresponsible and criminally unimputable.

The Statute of the Child and Adolescent deals with the rights of the child, the adolescent and the family before the school institution. The Guardianship Council can act in cases of non-achievement and low school performance; in cases of children or adolescents dropping out of school; in cases of suspected or evidence of abuse or exploitation and mistreatment of children and adolescents. If teachers communicate, the Guardianship Council can act as an auxiliary of the school institution for both to work in favor of maximizing, qualifying and expanding the right of children and adolescents to education.

The school must be protective, in relation to children and adolescents using the referred Statute whenever it is perceived that a child or adolescent in the family or outside it is being violated in their rights, especially in relation to education and physical, psychological and moral integrity.

Law No. 13,306, of July 4, 2016, amended the Statute of the Child and Adolescent, providing that early childhood education is from zero to five years and that, if the Government is not ensuring the right to daycare and preschool for children, it is possible that actions of responsibility for the offense to this right will be filed. This amendment was made to adapt the Statute, which was outdated in relation to the Law of Guidelines and Bases of Education. Who has the duty to offer early childhood education (kindergartens and preschools) are the Municipalities. If this does not happen, the Judiciary can force the Municipality to provide a place in daycare to children up to five years of age.

1.3 LAW OF GUIDELINES AND BASES OF NATIONAL EDUCATION

According to the Law of Guidelines and Bases of National Education, early childhood education is the first stage of basic education. In its article 29, the document presents the purpose of early childhood education as the integral development of the child up to six years of age, including various aspects, physical, psychological, intellectual and social, complementing the action of the family and the community.

To work in early childhood education is required higher level in degree course, in universities and higher institutes of education. In addition, the recent Resolution of the National Council of Education requires that the course offer studies and teaching practice also in early childhood education.



In this same reasoning, it is oriented that in regions where there are no professionals trained at higher education, the minimum teaching training to work in early childhood education is admitted, as well as in the first four years of elementary school.

Article 89 of the LDB determines that daycare centers be integrated into the respective education systems within a period of three years.

In this sense, a conception of education is perceived since early childhood education.

1.4 THE NATIONAL CURRICULAR FRAMEWORK FOR EARLY CHILDHOOD EDUCATION

During and after the elaboration of the Law of Guidelines and Bases of National Education, much was discussed about the quality of early childhood education, resulting in several publications by specialists and distributed nationally, among them, the National Curricular Reference for Early Childhood Education (RCNEI) in 1998.

It is a document in three volumes, available on the website of the Ministry of Education and Culture and prepared in order to serve as a guide to reflect education within the scope of the objectives, contents and guidelines for professionals who work with children from zero to six years old, while respecting their pedagogical attitudes and the Brazilian cultural heterogeneity.

This "guide" document brings elements for the development of the curricular and pedagogical spheres of early childhood education and has served as a model for the elaboration of curricular proposals of the municipalities and for the political-pedagogical projects by the schools.

1.5 THE NATIONAL POLICY OF EARLY CHILDHOOD EDUCATION

The legal bases of the National Early Childhood Education Policy (2006) are the Federal Constitution, the Law of Guidelines and Bases of Education and the National Education Plan. According to national policy, institutions must be supervised, monitored and evaluated by the education system. For this, it is necessary that each institution follows the regulations and norms that guarantee the planning, elaboration and implementation of pedagogical proposals, the initial and continued training of teachers, the valorization of teaching with the inclusion of teachers in the plans of positions and salaries, admission through public tender (for public institutions) and the adequacy of the physical spaces of the institutions.

Among the main challenges are the articulation of education with other instances that are responsible for the joint construction of policies for childhood (such as Social Assistance, Health, Justice, Councils, etc.); the need to create structures and measures within the executive body that enable the system to monitor, supervise, evaluate and support early childhood education institutions; the recognition, by the Department of Education, of its role as coordinator of the educational policy for Early Childhood Education; the establishment of forms of financing that are consistent with the



new reality of Early Childhood Education; the establishment of continuing education programs for teachers in office (guarantee of initial training for teachers in office and/or admission of new teachers of early childhood education in accordance with the law) and the establishment of specific pedagogical guidelines that guide the elaboration of pedagogical proposals by early childhood education institutions.

According to the National Early Childhood Education Policy:

- 1) It is the duty of the State, the right of the child and the option of the family, the free attendance in daycare centers and preschools to children from zero to six years old (reduced to five, according to law 13.306/2016).
- 2) Early Childhood Education has a differentiated and complementary function to the action of the family, which implies a deep, permanent and articulated communication between them.
- 3) Early Childhood Education should be guided by the inseparability between care and education.
- 4) The education and care of children from zero to six years old is the responsibility of the educational sector.
- 5) The pedagogical process should consider children in their totality, observing their specificities, the differences between them and their privileged way of knowing the world through play.
- 6) Quality in Early Childhood Education should be ensured through the establishment of quality parameters.
- 7) The education of children with special educational needs should be carried out in conjunction with other children, ensuring them specialized educational care through evaluation and interaction with the family and the community.
- 8) Teachers and other professionals who work in Early Childhood Education play a socio-educational role, and should be specially qualified to perform their duties with children from zero to six years old.
- 9) The pedagogical proposals of Early Childhood Education institutions should explain conceptions, as well as define guidelines regarding the methodology of pedagogical work and the development/learning process, providing for evaluation as part of the pedagogical work that involves the entire school community.
- 10) Early Childhood Education institutions should elaborate, implement and evaluate their pedagogical proposals based on the National Curriculum Guidelines for Early Childhood Education and with the participation of teachers.



11) Education systems should ensure the valorization of non-teaching professionals who work in early childhood education institutions, promoting their participation in initial and continuing education programs.

12) The initial and continuing education of teachers of Early Childhood Education are rights and should be guaranteed to all by the education systems with the inclusion in the plans of positions and salaries of the teacher.

The objectives of the National Policy are: to guarantee financial resources for the maintenance and development of Early Childhood Education; ensure access for children with special educational needs in early childhood education institutions; strengthen the relations between the Early Childhood Education Institutions and the families and/or guardians of children from zero to six years old enrolled in these Institutions; Effectively integrate early childhood education institutions into education systems through authorization and accreditation of the same by the Municipal or State Councils of Education; ensure adequate physical spaces, equipment, toys and materials in Early Childhood Education institutions, considering special educational needs and cultural diversity; ensure the quality of care in Early Childhood Education Institutions (kindergartens, equivalent entities and preschools); strengthen partnerships to ensure, in the competent institutions, the integral care to the child, considering its physical, affective, cognitive/linguistic, sociocultural aspects, as well as the playful, artistic and imaginary dimensions.

1.6 CURRICULUM GUIDELINES FOR EARLY CHILDHOOD EDUCATION

Early childhood education includes work in daycare centers for children from zero to three years of age and in early childhood education classes, children from four to six years old. The Guidelines highlight the need for integrated work between the areas of social policies for children and the family, such as health, social work, work, culture, housing, leisure and sport.

According to the third guideline, the integration between physical, emotional, affective, cognitive/linguistic and social aspects of the child should be promoted, being understood as a total, complete and indivisible being.

The fourth guideline recognizes children as beings of integrity, so pedagogical proposals should seek interaction between the various areas of knowledge and aspects of citizen life, as basic contents for the constitution of knowledge and values.

2 FINAL CONSIDERATIONS

There is a gap in the training of some early childhood educators in Brazil regarding the knowledge of the legal provisions regarding this level of education. As a rule, these provisions are presented, but without awakening in educators the true importance of this knowledge that, primarily,



should be of interest only to administrators and operators of the Law. It happens that knowing the legal determinations can guide the actions of these educators and avoid making mistakes in their daily practices. Thus, it is essential that the initial or continuing education of early childhood education professionals refer to the legal diplomas relevant to this level of education.



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