

ARTICLE

The accessibility and the inclusion in a Higher Education Federal Institution since the law no. 13.409

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ABSTRACT

The current study aims to analyze the adequation process of a Higher Education Federal Institution to law no. 13.409, of December 28th, 2016, which implements quotas for people with disabilities. It is a qualitative research of a single case. Two managers of the Institution were interviewed and researched documents related to the theme for our documental *corpus* were collected. For the documental analysis, the content analysis procedure was used. It was found that the analyzed institution does not have adequate conditions to meet the quota for people with disabilities established by the law. It is concluded that, even though law no. 13.409/2016 is fair and necessary, the conditions for its effectiveness by part of the federal government were not created. What should have been inclusion is, in fact, a process of exclusion.

KEYWORDS

accessibility; inclusion; higher education; law no. 13.409.

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A ACESSIBILIDADE E A INCLUSÃO EM UMA INSTITUIÇÃO FEDERAL DE ENSINO SUPERIOR A PARTIR DA LEI N. 13.409

RESUMO

O presente estudo tem como objetivo analisar o processo de adequação de uma Instituição Federal de Ensino Superior à lei n. 13.409, de 28 de dezembro de 2016, que implementa cota para pessoas com deficiência. A pesquisa é de natureza qualitativa e configura-se um estudo de caso único. Foram entrevistados dois gestores da instituição e levantados documentos relacionados ao tema para a composição do *corpus* documental. Para o exame documental, utilizou-se o procedimento da análise de conteúdo. Constatou-se que a instituição examinada não apresenta condições adequadas para o atendimento à cota para pessoas com deficiência estabelecida na referida lei. Conclui-se que, mesmo a lei n. 13.409/2016 sendo justa e necessária, as condições para a sua efetivação por parte do governo federal não foram criadas. O que deveria ser inclusão configura-se, na verdade, um processo de exclusão.

PALAVRAS-CHAVE

acessibilidade; inclusão; ensino superior; lei n. 13.409.

LA ACCESIBILIDAD Y LA INCLUSIÓN EN UNA INSTITUCIONE FEDERALE DE EDUCACIÓN SUPERIOR A PARTIR DE LA LEY N. 13.409

RESUMEN

El presente estudio tiene como objetivo analizar el proceso de adecuación de una Institución Federal de Educación Superior a la ley n. 13.409, de 28 de diciembre de 2016, que implementa una cuota para personas con discapacidad. La investigación es de naturaleza cualitativa y se trata de un estudio de caso único. Se entrevistaron dos directivos de la institución y se recopilaron documentos relacionados con el tema para la composición del *corpus* documental. Para el tratamiento documental, se utilizó el procedimiento del análisis de contenido. Se constató que la institución examinada no presenta las condiciones adecuadas para cumplir con la cuota para personas con discapacidad establecida en la referida ley. Se concluye que, aunque la ley n. 13.409/2016 es justa y necesaria, no se crearon las condiciones para su efectuação por parte del gobierno federal. Lo que debería ser inclusión se configura, en realidad, un proceso de exclusión.

PALABRAS CLAVE

accesibilidad; inclusión; enseñanza superior; ley n. 13.409.

INTRODUCTION

The guidelines for inclusion and accessibility are recent social transformations (Cantorani and Pilatti, 2015; Diniz, 2007; Figueira, 2008; UPIAS, 1975, 1981; UPIAS and Alliance, 1997). An important milestone for this transformation movement was the emergence in the 1960s, in the United Kingdom, of a social model to debate disabilities. This theoretical review about disabilities was born as a reaction to biomedical approaches (Cantorani and Pilatti, 2015; GMCDP, 2010; UPIAS, 1975, 1981; UPIAS and Alliance, 1997).

The biomedical model of disability focused on the disability, the disease, or the bodily “abnormality”, emphasizing the disability or functional limitation (Bampi, Guilhem and Alves, 2010; Cantorani and Pilatti, 2015; Medeiros and Diniz, 2004; Oliver, 1997; UPIAS, 1981).

On the other hand, the social model of disability assumes that the disability is not entirely on the subjects or their physical limitation, but on the combination of limitations imposed by the body — as a result of some type of loss or decreased functionality — and a social organization that is not sensible to body diversity (Cantorani and Pilatti, 2015; Medeiros and Diniz, 2004; Oliver, 1997; UPIAS, 1975, 1981).

This approach to disability stimulated changes and reformulations of concepts, guidelines, and legislation (Cantorani and Pilatti, 2015), leading, nowadays, to guarantees to the people with disabilities (PWD) (Brasil, 1989), and also following the general principles established by the United Nations (UN) at the Convention on the Rights of Persons with Disabilities, held in 2006, of which Brazil is a State party and signatory (Brasil, 2008, 2009; ONU, 2006, 2007).

Inclusion is the act of creating the conditions for PWD to naturally interact in all situations of social life. Socially, inclusion represents the development toward equal rights among the individuals that form a society. It is about extending, to everyone, the right to integrate and participate in all dimensions of social environments, without any type of discrimination or prejudice. Laws are then implemented to guarantee these conditions (Brasil, 2006, 2007, 2013c, 2013b, 2017a; ONU, 2006), regardless of physical conditions, education, gender, sexual orientation, ethnicity, among other aspects. In the school context, it is the idea that everyone has the right to have access to the educational system, with no segregation or discrimination based on physical and/or psychological conditions, or due to gender, religion, ethnicity, social class.

Accessibility, on its turn, is a concept related to the scenario of promoting inclusion. In its magnitude, compared to the social evolution reached, it has multiple dimensions, such as attitudinal, architectural, methodological, programmatic, instrumental, transport, communication, and digital accessibilities (Cantorani and Pilatti, 2015).

A great development in this scenario to guarantee the rights of PWD was established by law no. 13.409, of December 28th, 2016, regarding the reservation of places in the technical courses of high school and higher education in the Federal Education Institutions (*Instituições Federais de Ensino* — IFEs) (Brasil, 2016),

which characterizes the modernization of the legal scope toward the assurance of this population. With its approval, some adequations were imposed to the IFEs regarding the accessibility and inclusion of PWD.

Accessibility and inclusion in Brazilian higher education are relatively new themes. Even more recent is the obligation of quotas for PWD. The issue is: How is this process taking place? In other words: Accessibility and inclusion are, in fact, being implemented? Are IFEs promoting the accessibility and inclusion of these people? In what ways, to what costs, and with what support?

In general, the theme has been establishing itself as an object of research in the academy. However, in a study carried out — described below —, the number of studies on the theme is still small and, there is not, to date, a research considering law no. 13.409.

In a survey on publications related to the theme — through bibliometrics, using the terms “accessibility”, “inclusion”, “higher education”, “Brazil”, “Brazilian”, “people with disabilities”, “PWD”, and its possible combinations — 45 publications were found.

In the SciELO platform, 39 published studies were found with themes related to accessibility and/or inclusion in higher education. Within this theme, the studies focused on different specificities: teacher training to attend students with disabilities in higher education (Reis, Eufrásio and Bazon, 2010); the right to inclusion in higher education (Araujo, 2017); inclusion specifically of students with visual disabilities (Fernandes and Costa, 2015; Regiani and Mól, 2013); inclusion and accessibility specifically of students with hearing disabilities (Bisol *et al.*, 2010; Fernandes and Moreira, 2017; Martins and Napolitano, 2017; Mesquita, 2018); inclusion in higher education (Almeida and Ernica, 2015; Calheiros and Fumes, 2016; Facci, Silva and Souza, 2018; Nozu, Bruno and Cabral, 2018; Oliveira, Gonçalves and Oliveira, 2016; Poker, Valentim and Garla, 2018); normalization, access legitimacy, participation, and formation (Cabral and Melo, 2017); accessibility in higher education (Silva and Ferreira, 2017); permanence of students with disabilities (Maciel and Anache, 2017); admission and permanence (Castro and Almeida, 2014; Moreira, Bolsanello and Seger, 2011); accessibility and permanence (Garcia, Bacarin and Leonardo, 2018); centers of accessibility in the universities (Ciantelli and Leite, 2016; Ciantelli, Leite and Nuernberg, 2017; Melo and Araújo, 2018); attention to diversity in higher education (Martos-García and Valencia-Peris, 2016); mapping of students in special education (Lourenço and Battistella, 2018); survey on the number of PWD enrolled in higher education (Duarte *et al.*, 2013); participation of students with disabilities in higher education (Gesser and Nuernberg, 2017); meanings of inclusion through students’ perspectives (Almeida and Ferreira, 2018); satisfaction evaluation of students with disabilities (Guerreiro, Almeida and Silva Filho, 2014; Saeta, Popadiuk and Teixeira, 2003); architectural barriers (Lamônica *et al.*, 2008); policies of inclusive formation (Pereira, Santos and Silva, 2011); scientific production on inclusive education (Oliveira *et al.*, 2016); scientific production on inclusion in higher education (Pletsch and Leite, 2017); access public policies (Martins, Leite and Lacerda, 2015); Programa Incluir (Nogueira and Oliver, 2018; Siqueira and Santana, 2010); evaluation of accessibility in higher

education courses by National Institute of Educational Studies and Research “Anísio Teixeira” (*Instituto Nacional de Estudos e Pesquisas Educacionais “Anísio Teixeira”* — INEP) (Cantorani and Pilatti, 2015); inclusion panorama Brazil/Portugal (Pereira and Albuquerque, 2017)

On the indexing base Web of Science, there are 6 published articles on the theme. Among them, the specificities were: accessibility in the spaces of higher education public institutions (Pereira, Machado and Carneiro, 2013); affirmative actions toward accessibility and inclusion in higher education (Napolitano, Leite and Martins, 2016); the perception of students with disabilities on the accessibility of higher education (Silva and Martins, 2016); social attitudes to promote inclusion in higher education (Omote, 2016); inclusion of deaf students in higher education (Santana, 2016); inclusion at Universidade do Amazonas (Fernandes, 2016)

Among the articles, only three studies focused on higher education public policies of access to PWDs. However, these do not address law no. 13.409/2016, which is recent and responsible for changing the way IFEs offer their reserved vacancies to this population.

Based on the incipient attention to the themes of accessibility and inclusion of PWDs in higher education and the originality of the theme, this study aims to analyze the process of adequation that took place in a Federal Higher Education Institute (*Instituição Federal de Ensino Superior* — IFES) to law no. 13.409/2016.

ACCESSIBILITY AND INCLUSION IN HIGHER EDUCATION FEDERAL INSTITUTIONS: NORMATIVE AND LEGAL ASPECTS

The adequation of Higher Education Institution (*Instituição de Ensino Superior* — IES) to the process of inclusion and accessibility started to be demanded by the Ministry of Education (*Ministério da Educação* — MEC) due to obligations established in documents regarding the rights of PWDs (Brasil, 2006, 2007, 2013a, 2013c; ONU, 1948, 2007).

The obligation is especially established in the Convention on the Rights of Persons with Disabilities (ONU, 2006), ratified in Brazil through decrees no. 186/2008 (Brasil, 2008) and no. 6.949/2009 (Brasil, 2009) and the National Policy of Special Education in the Inclusive Education Perspective (Brasil, 2007).

MEC, faced by the goal of full participation and inclusion established in Brazil (Brasil, 2008, 2009), starts to manage mechanisms to achieve such commitment (Brasil, 2007). The public policy defines that to guarantee the access, permanence, and participation of students in higher education, there should be planning and organization of resources and services to promote accessibility in architecture, communications, information systems, didactic and pedagogical materials (Brasil, 2007).

Also considering decree no. 5.296/2004 (Brasil, 2004), MEC establishes that the architectural accessibility in the IES should happen in all spaces, so that students, other members of the academic community, and society as a whole, have guaranteed their rights to come and go with safety and autonomy. It also establishes that the fulfillment of the norm should take place regardless of the number of students with disabilities (Brasil, 2013c). However, about the accessibility conditions

to communication and pedagogical material, MEC establishes that these should be put into action when there is a demand for such resources and services. MEC also highlights that the IES are responsible for such adequations and availability of those services and resources in all academic and administrative activities (Brasil, 2013a, 2013c).

Circular letter no. 152/2013 (Brasil, 2013a) imposes an urgency to such adequations. This document reinforces the need “of MEC” to comply with the legal decisions delivered due to legal actions on the theme. Together with the letter, MEC forwarded the document *Orientações para a promoção da acessibilidade e permanência, na educação superior, de estudantes com surdez na educação superior* (Guidelines to promote accessibility and permanence in higher education of deaf students in higher education) (Brasil, 2013a, p. 12).

In tune with the adequation imposition of IES to guarantee inclusion and accessibility, MEC, since INEP, through the Evaluation Board of Higher Education (*Diretoria de Avaliação da Educação Superior — DAES*), responsible to implement the National Higher Education Assessment System (*Sistema Nacional de Avaliação da Educação Superior — SINAES*), created a guiding document for the commissions responsible for in loco assessments entitled *Referenciais de acessibilidade na educação superior e a avaliação in loco do Sistema Nacional de Avaliação da Educação Superior (SINAES)* (Guidelines of accessibility in higher education and in loco assessment of National Higher Education Assessment System). The document aims to provide support to evaluators’ actions on issues pertinent to the accessibility of students with special educational needs and distinct assistance in different levels (Brasil, 2013b).

In general lines, the guiding document was structured to support the *Instrumento de avaliação de cursos de graduação presencial e a distância* (Instrument of assessment of — presential and online undergraduate courses), of 2012, which subsidized the authorization acts of the courses — authorization, recognition, and renewal of recognition — for technical courses, teaching and bachelor degrees, online or presential. The current version of the assessment tools is from 2017: *Instrumento de avaliação de cursos de graduação presencial e a distância: autorização* (Assessment tool of undergraduate courses presential and online: authorization) (Brasil, 2017b); *Instrumento de avaliação de cursos de graduação presencial e a distância: reconhecimento e renovação de reconhecimento* (Assessment tool of undergraduate courses presential and online: recognition, and renewal of recognition) (Brasil, 2017a).

The guideline document added to the assessment tool of courses the support to specifically evaluate accessibility. Such support was structured in two tables of reference: “Spectrum of Accessibility”; and “Accessibility in the current assessment tool” (Brasil, 2013b, p. 37-44).

On the table “Spectrum of Accessibility” the aim was to inform on the vastness of the accessibility concept, showing that it is not restricted to physical and architectural aspects, but rather a set of dimensions: attitudinal accessibility (which refers to prejudices, stigmas, stereotypes, and discriminations); architectural accessibility (also known as physical); methodological accessibility (also known as pedagogical); programmatic accessibility (which refers to the sensibilization towards the elimination of barriers and guidelines on public policies); instrumental

accessibility (referring to study instruments and tools); transport accessibility (regarding not only vehicles, but also bus stops, parking, sidewalks); communication accessibility (regarding interpersonal communication, written and virtual); digital accessibility (availability of communication, of physical access, adequate equipment and programs, content and presentation of information in alternative formats) (Brasil, 2013b, p. 37-39).

The table “Accessibility in the current assessment tool” presents analysis criteria toward the verification of the adequacy of IES. The examination of this adequacy is distributed in two of the three dimensions which compose the *Instrumento de avaliação de cursos de graduação presencial e a distância*: dimension 1 (pedagogical-didactical organization) and dimension 3 (infrastructure). Regarding dimension 2 (faculty and tutors), no accessibility analysis criteria were added (Brasil, 2013b).

The indicative of analysis on the existence of accessibility in such dimension continue in the assessment tools of 2017 (Brasil, 2017a, 2017b). In those, the reference term to be analyzed is “accessibility”. The definition given is the same as law no. 13.146, of July 6th, 2015 (Brasil, 2015):

Possibility and condition to use, with safety and autonomy, spaces, furniture, urban equipment, buildings, transports, information, and communication, including their systems and technologies, as well as other services and facilities open to the public, for public use or private collective use, in urban and rural areas, for people with disabilities or reduced mobility.

To the IFEs, since 2017, with the sanction of law no. 13.409/2016, which changed law no. 12.711, of August 29th, 2012, on the reservation of places for PWDs in technical courses of high school and higher education and legally imposing the guarantee of a percentage of places for PWDs — the concern with issues involving accessibility increased. This attention is due to two aspects in this scenario: the first regards the need of adequation to guarantee accessibility, which became an obligation highlighted on the tools to access the courses; the second arises with the creation of this law, which offers the guarantee that the number of students with disabilities will increase in the IFEs

According to article 3 of this law,

In each higher education federal institute, the vacancies regarding article 1 of this Law will be occupied, by course and shift, by those self-declared black, brown,¹ Indigenous, and people with disabilities, under the terms of the law, proportionally to the total number of vacancies, at least the same to the respective proportion of blacks, browns, Indigenous, and people with disabilities in the population of the Federal unit in which the institute is established, accor-

1 The manual of IBGE defines *pardo* (brown) as those resulting from a mixture of races. It is one of the five groups used by the Institute to racially classify the Brazilian population, together with white, black, yellow (Asian descendants), and Indigenous. (Translator’s note).

ding to the last census of the Brazilian Institute of Geography and Statistics (*Fundação Instituto Brasileiro de Geografia e Estatística* — IBGE). (Brasil, 2016)

According to article 5 of the same law,

In each higher education federal institute of technical high school, the vacancies referred in article 4 of this Law will be occupied, by course and shift, by those self-declared black, brown, Indigenous and people with disabilities, under the terms of the law in proportion to the total number of vacancies at least equal to the respective proportion of blacks, browns, Indigenous, and people with disabilities in the population of the Federal unit in which the institute is established, according to the last IBGE census. (Brasil, 2016)

With law no. 13.409/2016, PWD are included in the program of quotas of IFEs. Originally the Law of Quotas (law no. 12.711) determined that the IFEs should reserve a minimum of 50% of vacancies, per course and shift, for students who had studied their whole high school in public schools. Within this quota, 50% of vacancies (25% of the total number of vacancies) should be reserved for students from families whose income was equal or lower than 1.5 minimum wages *per capita*. However, the quotas need to be occupied, in the original law, according to the proportion of people self-declared black, brown, and Indigenous in the population of each federation unit (States or the Federal District) in which the institution is established. Therefore, the new law adds PWD to this quota, which is also guided by the proportionality of the population, which is measured, as well as the others, by the last the Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística* — IBGE) census.

Considering that law no. 13.409/2016 came into force on the date of its publication, December 28th, 2016, this meant that IFEs should adapt themselves to the law already in the school year of 2017. Operationally, this would be very difficult at the beginning of the 1st semester of 2017, considering that the admission process for that year had already been done when the law was published. For IFEs with semesterly admissions, there was still the possibility of adequation starting in the middle of 2017.

METHODOLOGY

This study is qualitative and focuses on a single case. The case analyzed was of an IFES in the South of Brazil. The Institute has over 2,000 professors and 30 thousand students, with headquarters in the capital of the state and *campi* in the countryside. Student admission takes place completely by the Unified Admission System (*Sistema de Seleção Unificado* — SISU). In the institute, two entries for admissions are offered annually, approximately 9 thousand places, characterized as one of the first federal institutions which reserved vacancies for PWDs in compliance with law no. 13.409/2016.

Following the steps recommended by Yin (2015), the case study was carried out in three steps: planning, data collection, and case analysis.

The planning included:

- systematic review of literature and creating a state of art, using the *Methodi Ordinatio* — a method that uses ICTs in the process of collection, selection, and classification of scientific data according to its scientific relevance, considering the three most important factors in a publication: impact factor, year of publication, and number of citations (Pagani, Kovaleski and Resende, 2018);
- selection of the two subjects to be initially interviewed considering the snowball procedure — a non-probabilistic sampling technique using reference chains, a type of net in which the initial participants in a study (called seeds and identified from key informants) indicate new participants until the proposed objective is reached (the “saturation point”), when the participants do not add new relevant information to the research (Handcock and Gile, 2011);
- the protocols to establish the documental *corpus* of the study were defined, through semi-structured interviews and document surveys.

The document survey was initially established by Brazilian laws related to inclusion and accessibility. These series of laws allowed us to understand the responsibilities and obligations of IFEs toward the theme and to draw the initial outlines to structure the interviews. In addition, the documents related to the preparation of the researched Institute for the admission processes in which law no. 13.409/2016 was enforced were also raised. These documents helped to understand the complexity of such service and finalize the structure of the interviews.

Semi-structured interviews, which could change depending on the conversation with the interviewees, questioned issues related to: the perspective of the managers of the Institute on PWDs’ inclusion; the position of the institute on the public policies towards the access of PWDs; law no. 13.409/2016 and its impacts to IFEs.

Two managers of the Institute were interviewed, once each, who were selected following the criterium of a direct relationship with the discussed theme and their decision power about it. The interviews were enough considering its reach, in terms of understanding, and saturation of information (Thiry-Cherques, 2009). In the results and discussion section, to guarantee their anonymity, the interviewees were coded as I1 and I2, “I” for interviewee and the numbers 1 and 2 to distinguish them. The interviews were recorded and later transcribed. The written version was presented to the interviewees, giving them the possibility to change the content. After making the corrections asked, creating the final version of the document produced by the interviews, the interviewees’ signatures were requested according to the ethical rules of academic research.

The analytical procedure used was that of content analysis, which within the logic-semantic field followed the steps recommended by Bardin (2011). According to Bardin’s analysis model, the following steps were adopted: the selection of parts of the interviews and documents in units of registry (words, phrases, paragraphs) grouping them thematically into initial, intermediate, and final categories; out of the 33 initial categories, 16 intermediate ones were created and from those, we had three final categories:

- operationalization of law no. 13.409/2016, in the analyzed institute;
- difficulties to implement new policies; and
- answers to the new legislation.

This last one was used to treat the results, inference, and interpretation of valid and significant data on the expected goal.

The approach and methodological instrument used followed the ethical procedures established for the scientific research in human sciences (Santos, 2011).

RESULTS AND DISCUSSIONS

OPERATIONALIZATION OF LAW NO. 13.409, DECEMBER 28TH, 2016, IN THE INSTITUTE RESEARCHED

Following law no. 13.409/2016, the researched IFES projected, still in 2017, the availability of vacancies, per course and shift, a percentage of people self-declared black, brown, Indigenous, and PWDs. This percentage was, based on the law, at least equal to the same proportion of blacks, browns, Indigenous, and PWDs in the population of the Federative unit the Institute is established (Figure 1). The reference for the percentage is the last census of IBGE.

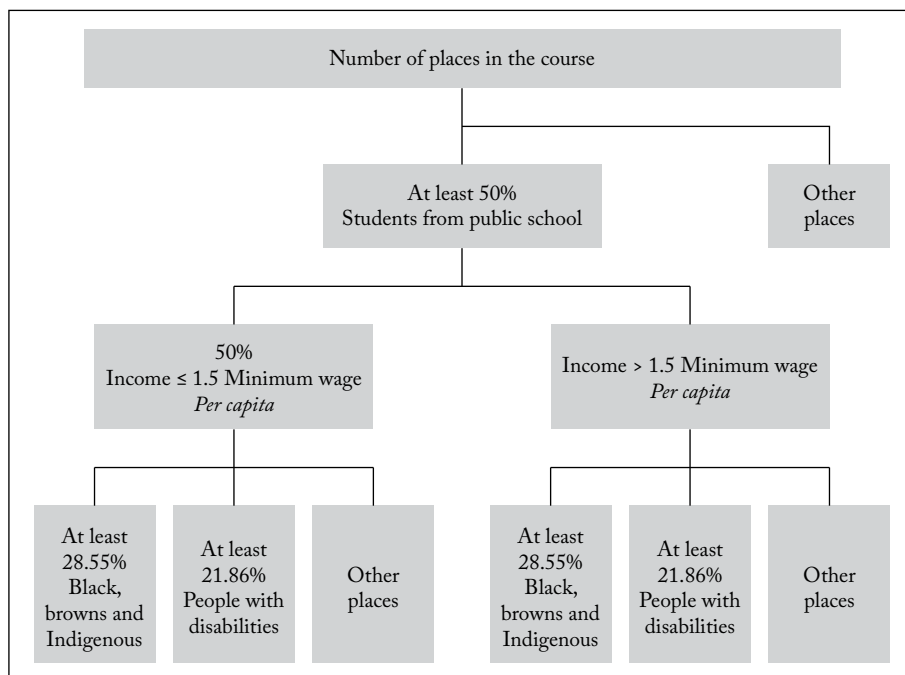


Figure 1 – Percentage of quotas law no. 13.409/2016 and IBGE (2012).

Source: based on law no. 13.409/2016 and data from IBGE (2012).

In the state of the researched institution, according to the Census 2010 (IBGE, 2012), the number of PWD with at least one of the disabilities investigated was 2,283,022, corresponding to 21.86% of the population in the state. This number is close to the rest of the entire Federation (23.9%). The proportion of people self-declared brown was 25.1%, black 3.2%, and Indigenous 0.25%. Altogether, the group of those self-declared black, brown, and indigenous (BBI) adds up to 28.55%.

Based on the numbers of IBGE (2012), the reservation of vacancies should observe these percentages, considering the quota students without proof of income and income under 1.5 minimum wage *per capita*: black (3.2%); brown (25.1%); indigenous (0.25%); PWDs (21.86%). The sum of the four quotas is 50.41%. For the proposal of vacancies, the numbers are rounded up to the highest values. 49.59% of the quotas are left for those not self-declared as BBI. In practical terms, the value ends up being lower due to rounding.

In a numerical projection, considering a class of 44 students — most classes in the researched IFES have this average of students —, we have the following numbers of quota students (Table 1).

In the call for the entrance exam 2017/2, the researched IFES offered 4,306 vacancies, of which 2,153 were allocated to quota holders. Of those, 587 were

Table 1 – Places for quota students in a class of 44 participants.

Quota category	No.
Q1d – PWD, from a family of income equal or lower than 1.5 minimum wages, not self-declared black, brown, or indigenous;	2
Q1nd – not a PWD, from a family with income equal or lower than 1.5 minimum wages, not self-declared black, brown, or indigenous;	5
Q2d – PWD from a family of income equal or lower than 1.5 minimum wages, self-declared black, brown, or indigenous;	1
Q2nd – not a PWD from a family of income equal or lower than 1.5 minimum wages, self-declared black, brown, or indigenous;	3
Q3d – PWD regardless of income (no need for proof of income), not self-declared black, brown, or indigenous;	2
Q3nd – not a PWD regardless of income (no need for proof of income), not self-declared black, brown, or indigenous;	5
Q4d – PWD regardless of income (no need for proof of income), self-declared black, brown, or indigenous;	1
Q4nd – not a PWD regardless of income (no need for proof of income), self-declared black, brown, or indigenous.	3

Q: quota students; d: candidates that have a disability or have to prove their disability; nd: candidates with no disabilities; N: numbers of quota students.

Source: Adapted from law no. 13.409/2016 and IBGE (2012).

offered to PWD. The perception of managers in relation to the imposition is that “it is not up to the institution to question the law, it has to follow it” (I1, 2018). To I2 (2018), the duty of the State is to be responsible for the quality of people’s development and to prepare them for the job market. Therefore, this “makes public universities a conducive environment to do so, in which we can respect and see human diversity” (I2, 2018). Beyond legality, both interviewees highlighted the law as a necessary measure.

Even though, since 2008, there was already a national policy for special education in the perspective of inclusive education, established in decree no. 186/2008 (Brasil, 2008), it was since 2013, with the introduction of a new evaluation instrument, that the demands from INEP were more effective. Accessibility, which was basically evaluated in terms of physical structure, started to be assessed more widely. This was a measure adopted by MEC faced by the goal to fully establish participation and inclusion in Brazil (Brasil, 2008, 2009)

I1 (2018) points out that law no. 13.409/2016 gave more materiality to inclusion and, added to the obligation of accessibility in the assessment tools of INEP, the IFEs perceived they were obliged to follow these obligations, but were having difficulties to do so.

As described by I2 (2018), MEC specified the number of vacancies for the admission of PWD to the IFEs, which according to him, became an important mechanism to enforce inclusion in Brazil.

However, as expressed by I1 (2018), it is contradictory that the federal government creates the laws but does not give the IFEs the conditions to comply with them. Continuing with this thought, this interviewee inferred that the budgets of IFEs to invest were reduced to insignificant amounts in the last years. He also reported that the previous conditions to follow the law, in different measures, were at most incipient; and that the hiring of new personnel to attend the demands imposed is forbidden, and that in the few breaches in law, the burden of hiring is up to the universities, which already survive with reduced budgets.

According to I1 (2018), on several opportunities, the analyzed institute and, in some situations, also MEC, was legally notified and the demanded by control bodies for not following the legislation. The interviewee also emphasizes that the most emblematic case was that of a student with autism: in order to carry out National High School Exam (*Exame Nacional do Ensino Médio* — ENEM), the student needed the monitoring of three caretakers; approved in the institute, they could see, on the one hand, that the institutions did not have the minimum conditions to attend the student’s needs, and, on the other, that what was demanded by the student’s family was far beyond reasonable. After over a year, the situation persisted with palliative and unsatisfactory solutions to both parts. For I1 (2018), “inclusion has never taken place in this case and in many others”.

The measures taken by MEC to reach the target of participation and inclusion appear to be effective regarding the legal structure. However, more attention is needed in this scenario, especially the support to the IFEs and the actualization of accessibility in its multiple dimensions: attitudinal, architectural, methodological,

programmatic, instrumental, transport, communication, digital, and, consequently, the establishment of inclusion *per se*. As there is a significant distance between admission and permanence (Cabral and Melo, 2017; Cantorani and Pilatti, 2015; Martins and Napolitano, 2017; Omote, 2016).

DIFFICULTIES TO IMPLEMENT NEW POLICIES

The interviewees (I1, 2018; I2, 2018) recognize that when law no. 13.409 was published on December 28th, 2016, it should have been enforced by the IFEs, theoretically, in the first semester of 2017. According to them, the enforcement, though not optional, has not taken place in almost all Brazilian IFEs. As explained by the interviewees, in addition to the lack of time to implement the law in the first half of 2017, leading to a lawsuit against the IFES researched, the Institute did not have physical and personnel conditions to attend the demands imposed at that moment.

The research IFES started its adequation process in the middle of 2017. This impossibility to meet the new policy, according to I2 (2018) was clear in the admission process of that year and also in the selection process at the beginning of 2018. The difficulties were only minimized in the second semester of 2018. However, according to the interviewees (I1, 2018; I2, 2018), there were many challenges to carry out the admission processes. Among the difficulties and limitations listed on the interviews, are: the lack of structural, didactic, pedagogical, and personnel structure in the *campi* of IFES. Problems that, according to the interviewees (I1, 2018; I2, 2018), are recurrent in all IFEs in Brazil.

As pointed out by I1 (2018), the difficulties for IFEs are even greater after the admission process, as they do not receive any needed and urgent financial and personnel support to adapt to the new obligations. He also highlights that “Brazil is going through a very complex moment in its history and at the moment investment resources and new hires are unthinkable”. In this manager’s perspective, the government promulgated a law that is unquestionable, in any sense. However, IFEs do not have the minimum conditions to enforce it, as “the concrete reality has presented situations in which its enforcement is not possible” (I1, 2018).

According to I1 (2018), at the beginning of the process to offer vacancies for PWDs (2nd half of 2017) when demand was still low — filling approximately 10% of the offered vacancies — IFES have proven to be incapable to satisfactorily respond to the demands of the law, showing that they still did not have the structure to attend this particular, unpredictable, and temporal demand.

The lack of structure is seen by I1 (2018) as a common problem in Brazilian universities and, according to him, there is now one more aggravating issue: the lack of specific and trained personnel to serve a peculiar audience. The interviewee presents as a more complex example with regard to the lack of professionals for specific care cases of students with autism; he also points to the lack of personnel to deal with deaf students, who require classes offered in LIBRAS (Brazilian sign language) and specialized professionals for such demand.

Manager I2 (2018) clarifies that IFES precariously attend students with disabilities, as the number of professors and staff hired exclusively to accompany them is reduced. According to him, the policy proposed for the inclusion of PWD, initially, did not allow or even made flexible the hiring of professionals for specific areas.

This flexibilization came with ordinance no. 443, of December 27th, 2018. The Ordinance establishes the services that will preferably be the object of indirect execution (Brasil, 2018b), in compliance with the provisions of article 2 of decree no. 9.507, of September 21st, 2018, about the indirect execution, upon hiring, of services of the Federal public administration (Brasil, 2018a). With this Ordinance, what was a blurry possibility in the law, becomes a concrete possibility. The needed professionals can be hired with no legal maneuver. Though, this legal update facilitates hiring temporary professionals, their salaries are paid exclusively by the IFEs which do not have the necessary budget to do so.

A portrayal of this scenario is presented by I2 (2018) when explaining that there was an attempt by IFES to supply the demand for the professionals needed, “but the burden of the hiring would fall upon the institution, and the values toward this demand would make impossible the working of the university as a whole”.

Also, in the interview of I2 (2018), the lack of support to enforce the law was evidenced when MEC informed that the university would have to be responsible for hiring trained personnel and, thus, meet the demands of PWD. He reported that a survey done in the researched IFES pointed out that 47 professionals would be needed for the first semester of 2018, leading to an approximate cost of R\$5,000,000.00 annually for the institute. The interviewee pointed out that this survey only considered the needs for the first semester of 2018, and that it was not possible to predict the needs for the following semesters.

During the interviews, some examples were given about students with disabilities and the difficulties faced by IFES to attend those students' specific needs. In all examples, they highlighted problems related to the lack of structure and institutional preparation to attend the demands of each disability. An example presented by I2 (2018) was the registration of a candidate, in his words, with physical disabilities in the upper members. This student registered for a vacancy in the civil engineering course. As portrayed by I2 (2018), this case shows the need for IFES to reevaluate and restructure their pedagogical projects, as well as reorganize the physical structure of the labs and the training of personnel to allow the inclusion of these students.

The interviews showed that the IFES, though been called upon by the regulatory bodies and society itself, is still not able to follow the law. In the perspective of I1 (2018), “IFEs are doing what (little) is possible (outsourcing, tutoring, partnerships with associations) [...] but this is much less than what is minimally needed to include [the students]”.

This reality can be seen in other studies on the theme. Though there are developments around legal regulations toward guaranteeing the right of PWD

to higher education, there is a gap between the legal discourse and the effective conditions for the full participation of this public in the university experience (Almeida and Ernica, 2015; Almeida and Ferreira, 2018; Facci, Silva and Souza, 2018; Martins and Napolitano, 2017; Nozu, Bruno and Cabral, 2018; Oliveira *et al.*, 2016).

ANSWERS TO THE NEW LEGISLATION

Regarding the measures taken by IFES faced by the difficulties to adapt to the demands of law no. 13.409/2016, manager I2 (2018) considers that, compared to the problems in 2017, in the 2018 call for Admission the places for PWDs have improved, requiring more complete and thorough medical certificates and introducing specific forms in the call. Furthermore, the call established a longer deadline to evaluate candidates with disabilities, resulting in fewer conflicts. A commission was also implemented to monitor all the processes and to verify the documents presented by the candidates. However, the manager also reported that, even so, there were some flaws and that new adjustments were needed and added to the following calls (I2, 2018).

Manager I2 (2018) also informed that, in response to all the difficulties and limitations found for the implementation of the new policies, IFES took actions to not only follow the law, but also the permanence of students with disabilities.

We should add that drop-out and failure rates directly affect the financial resource of IFEs, which have part of their resources connected to the number of students, as well as to their permanence and achievement. This connection was established by the ordinance of MEC no. 651, of July 24th, 2013, the *Matriz de Orçamento de Outros Custeios e Capital* (Matriz OCC) as an instrument to annually distribute the resources to Federal universities (Brasil, 2013d). This *Matriz OCC* had its criteria based on decree No. 7233, of July 19th, 2010, about the budgetary and financial procedures related to university autonomy (Brasil, 2010). This budgetary connection between the IFEs and the number of students — not only those enrolled, but those who continue their studies and graduate — is a determinant factor to make the institutions search ways to improve students' permanence and achievement. Thus, beyond the legal obligations, there is a budgetary connection.

Manager I2 (2008) listed the actions taken to enforce the law and the permanence of students with disabilities: partnership with institutions specialized in the health area, such as orthopedics, otolaryngology, psychiatry, and ophthalmology; the creation in the academic system of a PWDs report, with description of the types of disabilities and the need (or not) for assistance; inclusion of the international symbols to identify disabilities in teachers' diaries, informing the professor beforehand about the students and their disabilities; hiring of caretakers to help students with severe physical restrictions, directly paid by the *campus*; creation of a "tutor companion" — a student hired with a university scholarship to assist students with disabilities; and the proposal to create an in-service training course about the topic for the professors.

All these actions aimed to provide better conditions for students, in addition to simply complying with the legislation. At the same time, as informed by I2 (2018), the University has been conducting studies, through specific commissions, to use technology to minimize the difficulties in the teaching-learning processes of students with disabilities. This manager believes that the use of technological resources could reduce the need to hire specific professionals, though these would require time and training of teachers for work.

It is possible to observe evidence on the development of internal policies toward inclusion and accessibility in this IFES, even before the law. However, as it is a recent and complex process, it is still far from being consolidated.

As reported by I2 (2018), in his words: “we know that we need to improve our accessibility conditions in general, to adjust the curricula, and the way we guide the teaching-learning processes in different ways for each type of person”.

However, the emphasis on the interviews was in the fact that the problems that took longer to allow inclusion in the IFEs are related to hiring personnel, a factor that is completely determined by the budget of the institute and limited by current legislation.

The interviews, together with the analyzed documents, show that for public policies such as this to in fact become an achievement for society, there is a need not only to have a law such as no. 13.409/2016, but also that the government needs to know about the concrete reality and awareness toward this reality; it is paramount that the necessary resources are properly guided toward the positive change of this reality.

According to the information given by the interviewees (I1, 2018; I2, 2018), public universities faced the imposition of law no. 13.409/2016 without the real conditions to overcome the problems presented in an unpredictable scenario drawn since the end of 2016. They add that these difficulties increase for the IFEs that do not offer courses in the health area, as they cannot count on the services of this segment.

Based on the social model of disability — which assumes that disability is established from the combination of limitations imposed by the body and the social organization that is not sensitive to corporal diversity (Cantorani and Pilatti, 2015; Cantorani, Pilatti and Gutierrez, 2015; UPIAS and Alliance, 1997) — and, given the scenario presented by the significant increase in students with specific and diverse needs — in view of the significant increase in the number of students with specific and varied disabilities — are not being correctly faced and/or solved by the university, whether by overcoming its possibilities/limits, whether due to lack of preparation (I1, 2018; I2, 2018). Though necessary and desired, the practical effect of the law in question cannot be turned into inclusion; and, maybe, is creating an exclusive environment. Further, in the opinion of I1 (2018), even if in different degrees, no Brazilian IFEs can fully comply with the legislation.

International researches show that the number of students with disabilities in higher education is low (Borges *et al.*, 2017), and that this situation is marked by

academic drop-out and failure (Borges *et al.*, 2017; Nolan *et al.*, 2015). This scenario is caused by “architectural barriers, the lack of adaptation of the teaching-learning processes, the lack of adequate educational resources and, mainly, attitudinal barriers” (Borges *et al.*, 2017).

Faced by this scenario, manager I1, based on his perception, since his position, also understands that MEC does not have the conditions to support IFEs to comply with the legislation and does not have an inclusion policy. To illustrate this, he highlights that the only program offered by MEC targeting the IFES is *Incluir* (he argues that there are programs of the Secretariat of Continuing Education, Literacy, Diversity and Inclusion for K12 education, but for higher education there is only *Incluir*) (E1, 2018).

Incluir is a program of accessibility for higher education that proposes actions to guarantee the full access of PWDs to IFES. Its main objective is to promote and consolidate centers of accessibility towards the integration of PWDs in academic life, breaking down behavioral, pedagogical, architectural, and communication barriers in the institutions (Brasil, 2013c).

As for the values received by the researched IFES from the program *Incluir*, manager I1 declares that it was just over R\$200,000.00 in 2018 (I1, 2018). In the manager’s opinion, the value is derisory considering that the institution has more than 30 thousand students. Moreover, he highlights that the Center for Accessibility in the institution has been playing an important role to minimize the problems resulting from these resources that are below the minimum required (I1, 2018).

Studies show the importance of the program *Incluir* to guarantee full access of PWD to higher education, especially for the creation and consolidation of accessibility centers in the IFES (Cabral and Melo, 2017; Nozu, Bruno and Cabral, 2018). However, these and other studies point out that it is necessary to go beyond the legal discourse and even incipient actions, which go nowhere (Almeida and Ernica, 2015; Borges *et al.*, 2017; Facci, Silva and Souza, 2018; Fernandes, 2016; Martins and Napolitano, 2017; Nozu, Bruno and Cabral, 2018; Oliveira *et al.*, 2016; Omote, 2016; Pereira and Albuquerque, 2017; Santana, 2016). The full participation of PWDs in the university structure requires not only legal but also budgetary organization.

FINAL REMARKS

The present study analyzed the process of adequation of an IFES to law no. 13.409/2016. It was found that the Institute analyzed did not present the adequate conditions to meet the demand implied when the law was established. We could perceive that the Institute adopted certain measures to attend the different specific and diverse needs imposed by reality. However, the structure for this service depends on resources from the federal government, which financially maintains the IFES. However, it has not provided adequate resources to enforce the legislation that the government itself has sanctioned. The burden, in this case, has been almost entirely on the universities.

In order to reach these conclusions, the content analysis of a documental *corpus* was operationalized, for which three categories were established:

- operationalization of law no. 13.409, of December 28th, 2016, in the analyzed institute;
- difficulties to implement the new policies; and
- answers to the new legislation.

In the category *Operationalization of law no. 13.409, of December 28th, 2016, in the analyzed institute*, it was evidenced that in the call 2007/2nd semester, the analyzed IFES offered 587 places for PWDs. In the managers' perspective, this was positive from the point of view of effecting the entry of students with disabilities in Brazilian universities. However, they highlighted the contradiction of creating a law such as this and not creating the conditions for IFEs to enforce it, putting at doubt/risk inclusion itself.

Regarding the *Difficulties to implement the new policies*, a lack of structural, didactic, pedagogical and personnel structure was reported on the *campi* of IFES. In the first call with a specific offering for PWDs, in the second half of 2017, even though there was a small demand (only 10% of the offered vacancies were used), they could perceive the inability to answer satisfactorily the demands of the law, unveiling the lack of structure to attend a particular, unpredictable, and temporal demand.

A great part of the problem is the lack of qualified personnel hired specifically for the necessary service, a scenario related to the non-hiring of this personnel and the lack of flexibility to do so. The flexibility came with decree no. 9.507/2018 and ordinance no. 443/2018. However, it was not possible to develop it as the financial responsibilities for those simplified contracts were up to the IFEs, which would hinder their operation.

As an answer to the new legislation, it was found that the Institute has been looking for ways to adequately meet the demands of law no. 13.409/2016, to guarantee not only the enforcement of the law, but also the permanence of students with disabilities.

What was shown in this study is the sad caricature of Brazilian higher education. Law no. 13.409/2016 is fair and necessary. What should be more widely discussed is the need to create the conditions for its actualization by the federal government. The bill, that is, the financial responsibility was forwarded to the IFEs. And what is shown is that they will find it difficult to bear these costs; risking the suppression of other needs. What should be a guarantee of inclusion, in a perverse way, may be creating a scenario of exclusion, by constructing an environment in which difference is highlighted and difficulty is potentialized. The legal scope is coherent and efficient in considering the target of full participation and inclusion established in Brazil. On the other hand, the governmental budgetary organization does not anticipate the necessary support for the IFEs to reach the expected levels of accessibility and inclusion.

The main limitation of this study is that it analyzes a single case, making it impossible to generalize the results. It is also important to highlight as a limitation the fact that the Institute studied does not offer courses in the health area, which have a practical relation to the demands produced in the process of inclusion, intensified after law no. 13.409/2016. About this scenario, it is assumed that it is feasible to interpret the existence of health courses directly related to this demand could minimize the difficulties found in the case studied. Therefore, to better understand this object, we need similar studies in other institutions.

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