

February – 2026

Regulation of Distance Learning Courses in Brazilian Higher Education: A Critical Review of Decree No. 12,456/2025 and Ordinance No. 378/2025

Thais Barbosa Reis¹, Nathalie Barbosa Reis Monteiro², Natacha Bertoia², Claudia Fernanda Franceschi Klement², Karen Perrotta Lopes de Almeida Prado², Alessandra Zago Dahmer², Miriam Rodrigues², and Eric Ferdinando Passone¹

¹Universidade Cidade de São Paulo (UNICID); ²Universidade Presbiteriana Mackenzie (UPM)

Abstract

This field note examines the recent regulatory framework for distance higher education in Brazil, analyzing the implications of Decree 12,456/2025 and Ordinance 378/2025. Through critical analysis, we assessed the alignment of these measures and their potential impacts on educational quality, accessibility, and institutional accountability. We examined the measures designed to balance the expansion of access with the assurance of quality, including mandated percentages of in-person and synchronous activities, redefined faculty roles, and restrictions on institutional sharing. While acknowledging the potential to enhance academic rigor and curb low-quality programs, the analysis highlighted significant implementation challenges. These include increased operational costs, potential impacts on tuition, and concerns that restricting teacher education to blended or in-person modalities may exacerbate teacher shortages in remote areas. The study concluded that the new framework's ability to reduce inequalities and improve employability depends on financial support, vigilant oversight, and further research, offering a valuable case study for global debates on regulating digital higher education.

Keywords: distance education, regulation, higher education, educational quality, public policies

Regulation of Distance Learning Courses in Brazilian Higher Education: A Critical Review of Decree No. 12,456/2025 and Ordinance No. 378/2025

Decree No. 12,456 of May 19, 2025 (Government of Brazil, 2025a), together with Ordinance 378/2025 (Government of Brazil, 2025b), published on the same date, established a new regulatory framework for distance higher education (DE) in Brazil and a new public education policy for this modality. These legal instruments were intended to reconcile the expansion of access to higher education with the maintenance of quality standards, setting guidelines for the provision of courses through in-person, distance learning, and blended formats. In this article, we examined the key aspects of these regulations, highlighting their contributions, innovations, and potential challenges for practical implementation in the Brazilian educational system.

Decree 12,456/2025 (Government of Brazil, 2025a) had, as its central objectives, promoting access to quality higher education, reinforcing criteria such as social responsibility and transparency in the provision of DE courses, valorizing teaching, and defining specific rules for in-person support centers. Ordinance 378/2025 (Government of Brazil, 2025b) complemented these provisions by detailing course delivery formats, establishing minimum percentages of in-person and synchronous workload for each modality. This new regulatory framework aimed to ensure that the flexibility of distance learning courses did not compromise teaching quality, pedagogical practices, or dialogic communication among instructors, facilitators, and students, aligning with recently established guidelines for expanding access and improving professional training.

However, these regulations also introduced technical definitions that reflected methodological interventions that could be interpreted as constraints on the pedagogical autonomy guaranteed by the Brazilian Federal Constitution of 1988 (Government of Brazil, 1988). Among these were requirements such as (a) synchronous mediated activities, capped at 70 students per instructor with attendance monitoring, justified to ensure effective pedagogical interaction; and (b) the imposition of in-person exams, which favor discursive questions that demand critical analysis, synthesis skills, and account for one-third of the total evaluation weight.

The concept of DE support centers as decentralized units of higher education institutions (HEIs), with a prohibition on inter-institutional sharing, aimed to prevent the proliferation of substandard structures and ensure minimum infrastructure standards. While this measure was intended to prevent excessive sharing practices that could compromise infrastructure quality and ensure adequate operational conditions, it may pose operational challenges, particularly for small institutions or those in regions with limited internet service coverage. Furthermore, the new regulation (Decree No. 12,456/2025 and Ordinance No. 378/2025) reinforced the importance of curricular units as components linked to the course pedagogical project (CPP), that has “as a priority function to guide and intentionally conduct the pedagogical process in the daily life of the classroom” (Silva et. al., 2021, p. 468), thus emphasizing faculty responsibility in teaching and assessment processes.

The rules established by the decree and ordinance outline criteria for each instructional modality.

- In-person courses must offer at least 70% of contact hours (CH) as face-to-face activities.
- Blended/hybrid courses (a newly introduced category) require 30% face-to-face CH and 20% in either in-person or mediated synchronous activities.
- DE courses must include at least 10% in-person activities and 10% mediated synchronous classes, without exceeding the limits established for blended courses.

In-person delivery, exclusively, was to be maintained for programs such as Law, Medicine, and Nursing, reflecting concerns about practical training in these fields. Conversely, Engineering and Health Sciences programs may adopt the blended/hybrid format, provided they maintain 40% of CH in face-to-face instruction. This flexible approach signaled an attempt to balance increased flexibility with minimal structural requirements for fields that require equilibrium between theoretical and practical components.

The new regulatory framework established guidelines that emphasized the valorization of teaching roles and clearly distinguished among lead instructors, content specialists, and pedagogical facilitators; the latter require appropriate academic qualifications. Tutors, in turn, were restricted to administrative functions, a measure that, according to the regulation's objectives, may be associated with enhancing educational quality standards.

Decree 12,456/2025 and Ordinance 378/2025 constituted a significant milestone in consolidating DE in Brazil by establishing a balance between flexibility and academic rigor. However, their implementation may face substantial challenges, including the need for significant infrastructure investments and ongoing faculty development. Emerging evidence (though not yet systematically studied) has suggested that these regulatory requirements may increase operational costs, potentially affecting tuition fees.

Teacher education programs may encounter considerable impact; under the new framework, these programs have been restricted to blended or in-person modalities. This policy shift has raised concerns, as the distance education modality had previously enabled teacher training in remote and underserved areas, precisely those regions experiencing the most severe shortages of basic education teachers and education professionals.

Furthermore, the impact of these regulations on reducing educational inequalities and enhancing graduate employability warrants further study. While they may represent progress in improving the quality of DE programs in Brazil, their success will depend on financial support policies and ongoing monitoring. The effectiveness of these regulatory measures will be contingent upon institutions' capacity to internalize the normative guidelines, responsive oversight by regulatory bodies, and active civil society engagement in monitoring public policies. Table 1 summarizes the key changes introduced by Decree 12,456/2025 and Ordinance 378/2025 for distance education.

Table 1

Comparison of Previous Legislation and New Regulatory Framework

Category	Previous legislation	New regulatory framework
Program formats	In-person and DE	In-person, blended, and DE
CH in-person Programs	Maximum 40% DE content	Maximum 30% DE content
CH blended programs	Unregulated	30% in-person plus 20% in-person or mediated synchronous
CH DE programs	Maximum 30% in-person	Minimum 10% in-person plus 10% mediated synchronous activities
Institutional accreditation	Separate for in-person/DE	Unified accreditation
Faculty composition	Professors and tutors (pedagogical mediation)	Program coordinator, lead instructor, and content specialist. (Lead instructors may be assisted by qualified pedagogical facilitators. Tutors restricted to administrative roles.)
Learning assessment	Unregulated	Mandatory periodic in-person assessments with majority weight and 1/3 dedicated to discursive questions testing analysis/synthesis skills.
Campus sharing	Unlimited sharing permitted	Prohibited for different HEIs at same address (except for National Apprenticeship System).
Partnership campuses	Unrestricted	Permitted with conditions. Professors must be hired by main institution. Student contracts must be with main institution.

The Ministry of Education’s quality benchmarks for distance undergraduate programs (Ministry of Education 2025) provided a comprehensive and updated framework on the essential elements for ensuring the academic quality of DE undergraduate programs. The previous document that addressed these benchmarks was nearly 20 years old (Ministry of Education, 2007).

Structured around key dimensions, including program design, student experience, teaching practices, learning methodologies, assessment, and infrastructure, the new framework emphasized student-centered learning at the core of educational development, with active and inclusive pedagogical mediation as a critical requirement. Key requirements included a CPP aligned with national curriculum guidelines,

enhanced emphasis on interactivity and personalized learning, the structural role of in-person support centers and professional practice environments, as well as the intentional pedagogical integration of educational technologies.

Regarding teaching practice, the establishment of continuous faculty development programs have been recommended, focused on pedagogical mediation in synchronous environments and the design of critical discursive assessment. In terms of theory, studies to analyze the impact of these new regulations on dropout rates, learning quality, and the perpetuation of regional inequalities are will be imperative, thereby refining DE theoretical models in light of a more restrictive regulatory context.

In conclusion, the newly analyzed regulatory framework represents a significant endeavor to strike a balance between the flexibility of distance education and the assurance of academic quality in Brazil. For Brazilian educators, these regulations have profound implications and entail significant changes, as they necessitate curricular adaptation, mastery of new competencies for hybrid and synchronous pedagogical mediation, and a redefined, more specialized role within distance learning ecosystems.

Beyond the national context, this case presents a valuable study for other nations facing the challenges of regulating digital higher education. Attempts to curb the proliferation of low-quality programs, establish clear interaction parameters, and enforce critical in-person assessments serve as a crucial experiment. Outcomes such as costs, access, and effectiveness will be closely observed by policymakers, institutions, and educators worldwide, thereby contributing to the global discourse on how to expand access to higher education without compromising educational rigor and integrity.

Furthermore, the new framework has reaffirmed commitments to universal access and digital inclusion, sustainable educational practices, and institutional governance. These proposed standards aim not only to expand DE offerings but also to establish distance education as a rigorous and legitimate modality, as well as a socially responsible pathway within Brazilian higher education.

Acknowledgements

While writing this field note, the authors made use of Grammarly (Pro) to polish some language in the text. We confirm that we have reviewed and edited the content as necessary, and we take full responsibility for it.

References

- Government of Brazil. (1988). *Constituição da República Federativa do Brasil de 1988* [Constitution of the Federative Republic of Brazil of 1988]. Official Gazette of the Union. https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm
- Government of Brazil. (2025a). *Decreto nº 12.456, de 19 de maio de 2025* [Decree No. 12,456 of May 19, 2025]. Official Gazette of the Union. <https://www.in.gov.br/en/web/dou/-/decreto-n-12.456-de-19-de-maio-de-2025-630398639>
- Government of Brazil. (2025b). *Portaria MEC Nº 378, de 19 de maio de 2025* [MEC Ordinance No. 378, of May 19, 2025]. Official Gazette of the Union. <https://www.in.gov.br/en/web/dou/-/portaria-mec-n-378-de-19-de-maio-de-2025-630395302>.
- Ministry of Education. (2007). *Referenciais de qualidade para educação superior a distância* [Quality benchmarks for distance higher education]. Ministry of Education/Distance Education Secretariat. <https://portal.mec.gov.br/seed/arquivos/pdf/legislacao/refead1.pdf>.
- Ministry of Education. (2025). *Referenciais de qualidade de cursos de graduação com oferta a distância* [Quality benchmarks for undergraduate courses offered via distance learning]. Ministry of Education/Distance Education Secretariat. https://www.gov.br/mec/pt-br/politica-regulacao-supervisao-educacao-superior/ead/documentos/referenciais_qualidade.pdf.
- Silva, B. C.; Oliveira, L. M. S. R.; Moreira, M. B. (2021). Pedagogical project of undergraduate courses and teacher education. *International Journal of Advanced Engineering Research Science (IJAERS)*, 8(11), 468-473. <https://dx.doi.org/10.22161/ijaers.811.49>

