



TODOS  
PELA  
EDUCAÇÃO



# TECHNICAL NOTE: **NATIONAL EDUCATION SYSTEM**

**Essential points to  
institute the National  
Education System and  
driving dimensions for  
the procedure in the  
National Congress.**

**June/2021**

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# PRESENTATION

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## About Todos Pela Educação

Todos Pela Educação (All For Education) is a non-profit, plural and suprapartisan civil society organization founded in 2006. With an independent performance and without receiving public resources, our focus is to contribute to improve Basic Education in Brazil.

For this, we develop actions aimed at expanding the sense of urgency to the need for changes in Education, we produce knowledge with the objective of supporting the decision-making of the different spheres of public authority and articulate with the main actors to implement the measures that can impact the directions of Education. In addition, we monitor the country's educational indicators and policies continuously.

## About this Technical Note

This Technical Note aims to discuss and qualify the debate on the main elements that, in the view of Todos Pela Educação, should be discussed and contemplated in the National Education System (SNE).

To fulfill this objective, based on documents already produced on the SNE and evidence on challenges of coordination and agreement of public policies in Brazilian Education, a proposal of 10 constitutive dimensions of this system was built and, therefore, we suggest being expressed in the complementary law to be approved.

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# INTRODUCTION

After more than three decades in which collaboration between the Union, states and municipalities was established from the Federal Constitution<sup>1</sup>, the area of Education still remains without a complementary law that regulates Federative cooperation in education and, more specifically, the National Education System (SNE). It is well known that the Constitution itself already delimits, albeit insufficiently, the attributions of the Federated entities in the performance between the stages of education – the municipalities act primarily in Elementary and Early Childhood Education and the states and the Federal District in Elementary and Secondary Education. However, the absence of a complementary law normalizing the articulation and the agreement, even bringing binding character to part of the decisions, opens loopholes for imprecision and ambiguity in the governance between the Union, states and municipalities.

The National Education System should become **the main governance policy for cooperation between the Federated entities in the field of Education<sup>2</sup>.** This system should be responsible for advancing the federative agreement, reflecting a new form of exercise of common competences among federative entities, governance and the agreement of educational policies. With its regulation, the expectation is to improve the definition of the attributions of federative entities and establish federative cooperation standards and improvement in the delimitation of responsibilities among them, fostering more dialogue and cooperation between entities, establishing transparent and articulated decision-making processes and, consequently, promoting the realization of the right to Education, bringing as a keynote of the System the reduction of educational inequalities and the development of most vulnerable students.



<sup>1</sup> Art. 211 of the Federal Constitution, updated by Constitutional Amendment No. 59/2009

<sup>2</sup> Glossary National Education System (Nexo Políticas Públicas, 2021).



This discussion about the SNE has been taking place for almost a century, since the *Manifesto dos Pioneiros da Educação Nova* [Manifesto of the Pioneers of New Education<sup>3</sup>, 1932, both in the National Congress and in academy, at the now terminated Secretariat of Articulation with Education Systems (SASE/MEC)<sup>4</sup> and in the debates of civil society<sup>5</sup>. In other words, it is not a new agenda, but it has taken on increasingly clear contours. Since 2011, eight additional bills<sup>6</sup> are in progress in the National Congress in order to establish the system at the national level, based on public debate<sup>7</sup> which has accumulated considerable experience over the years during which the agenda has been discussed. In recent years, the Todos Pela Educação, together with the Movimento Colabora<sup>8</sup>, it has intensified its work within the scope of the SNE and has been carrying out several studies, working groups with experts, debates and events with parliamentarians and other institutions that work on the subject. As a result of this work and the influx of knowledge that the debates and studies carried out so far have promoted, both organizations have worked to foster recommendations and dialogues that support the construction of an SNE that guarantees transparent, coordinated, efficient, participatory and dialogued management among Education systems in the Country.

Two of the supplementary bills, PLP 25/2019 (joined PLP 47/2019, PLP 216/2020 and PLP 267/2020) and PLP 235/2019, are being processed concurrently in the City Council and Senate, respectively. The latter, authored by Sen. Flávio Arns (REDE/PR), is ready for the agenda of the Education Commission, with rapporteur for the approval of the substitute of Sen. Dário Berger (MDB/SC). This opinion defines the guidelines and objectives of the National Education System; attribution of the entities and structure of the system; role of Education plans and integrating assessment of education systems into the system; and the source of resources for financing Education. The PLP 25/2019<sup>9</sup>, which was authored by Dep. Prof. Dorinha (DEM-TO), it is in the Education Committee and is under the rapporteurship of Dep. Idilvan Alencar (PDT/CE). Currently, the proposal awaits the holding of more public hearings in the Chamber of Deputies on structuring topics for the debate, with the objective of subsidizing the construction of the final report of the project.

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<sup>3</sup> New Education Pioneers Manifest (Thematic note, FGV-CPDOC); "The National Education System: different perspectives 80 years after the Manifesto" (Ministry of Education, 2014).

<sup>4</sup> SASE was an important instance within the Ministry of Education that fostered qualified debate about the SNE, highlighting the urgency of the agenda in combating educational inequalities.

<sup>5</sup> "National Education Conference 2010: Building the National Articulated System of Education: The National Education Plan, Guidelines and Action Strategies" (Ministry of Education, 2010).

<sup>6</sup> 3 PLPs were archived (PLP 15/2011, PLP 448/2017, PLP 413/2014). Currently, 4 bills are being processed in the City Council and one bill is being processed in the Senate.

<sup>7</sup> "National Education System and the Collaboration Regime between Federal Entities: Systematization document of the discussions of the working groups promoted by the Movimento Colabora Educação for the identification of challenges of coordination and agreement of public policies in Brazilian Education and the importance of the regulation of the national system for the sector" (Movimento Colabora, 2019).

<sup>8</sup> The Movimento Colabora Educação (MCE) has been working, since 2016, to strengthen federative governance in Education, through the production of knowledge and advocacy, based on practices, policies and collaborative experiences aimed at improving learning and promoting equity in Education Brazilian. | [movimentocolabora.org.br](http://movimentocolabora.org.br)

<sup>9</sup> Were attached to this the PLPs 47/2019 (Dep. Pedro Cunha Lima, PSDB/PB), 216/2019 (Dep. Prof. Rosa Neide, PT / MT) and 267/2020 (Dep. Rose Modesto, PSDB/MS).





With the approval of the new fund for the maintenance and development of Basic Education and the valuation of education professionals (Fundeb) in 2020 and the update of its regulation in 2021<sup>10</sup>, there is a new opportunity to move forward in the SNE debate. Both are closely linked instruments, because while the Fundeb is configured as the main policy for financing Basic Education, the SNE aims to regulate the premises of Federative cooperation in the field of Education and, therefore, are complementary and must necessarily be treated in an articulated way. In addition, the two policies have as their central axis the reduction of educational inequalities and the guarantee of resources and processes for the realization of the right to Education.

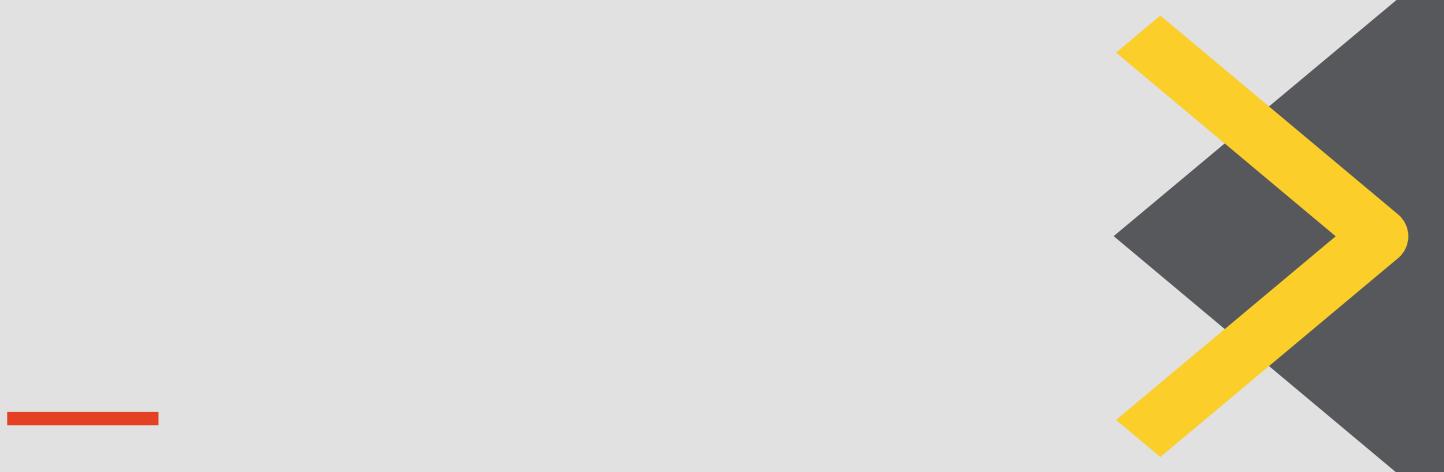
This being said, the SNE tends to strengthen the Fundeb as a state policy, because through the system the possibility is open for the improvement of decision-making within the fund, bringing a systemic logic of agreement, in addition to the inclusion of decisions on other financing mechanisms that can complement the logic of the Fundeb.

Considering this situation and the importance of the topic, **this Technical Note aims to discuss the main elements that, in the point of view of Todos Pela Educação, should be debated and contemplated in the National Education System.** We focus this analysis on what currently belongs to the expertise of our organization, weaving analysis for structural points of the system for Basic Education. Although Todos Pela Educação, in partnership with the Movimento Colabora, has already discussed several proposals for the design of an SNE, we understand (and hope!) that, at that moment, the detailed elucidation of the path that will have to be taken and the decisions that will need to be taken will make a relevant contribution to public debate and legislative work. After all, it is a challenge that will require broad efforts of technical formulation and political consultation, so that the complementary law approved ensures the operationality of the governance of cooperation between entities for Basic Education and the realization of its advances.

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<sup>10</sup> "Technical Note - Challenges of Fundeb Regulation" (Todos Pela Educação, 2020).





# IMPORTANCE OF THE NATIONAL EDUCATION SYSTEM



The collaboration regime, as stated in the Federal Constitution of 1988, requires federal entities to organize their education networks collaboratively<sup>11</sup>. This format of dynamic federative pact is used in a similar way in several **countries with federative configuration similar to Brazil**<sup>12</sup>, and aims to mitigate problems of coordination of educational policies and promote the sharing of good practices with the intention of guaranteeing the right to Education to any citizen, regardless of the region or territory to which they belong. The national Education policy accompanies, in these countries, a spatial or territorial division of decentralized decision-making that allows subnational entities a combination of autonomy and interdependence. In Brazilian federalism, as municipalities are autonomous Federated entities, the complexity and need for policy coordination increases even more, especially for the reduction of inequalities.

In view of this, the autonomy of subnational governments is premised on promoting greater attention to local peculiarities, while interdependence seeks to develop coordination and cooperation mechanisms that enable the implementation of good educational policies and the reduction of inequalities. In practice, each of these entities has clarity about its administrative autonomy. On the other hand, because there are no regulatory devices for Federative cooperation, these same entities use the articulation mechanisms in a discretionary way, often formulating and managing their educational policies in isolation.



<sup>11</sup> “Glossary Regime for Collaboration in Education” (Nexo Políticas Públicas, 2021).

<sup>12</sup> A few examples: Germany, Australia, Canada, United States and Mexico.



Some evidences, in Brazil and in several other countries of Federative configuration, are valid in order to exemplify this dynamic. At first sight, in Brazil, collaborative actions are carried out in greater volume between states and municipalities. In the last decade, **13 states** in Brazil presented some more robust history of collaboration of the states with the municipalities. The most emblematic case is that of the state of Ceará, where, since 2007, there has been a history of protagonism in the model of collaboration between the state and the municipalities, in which state policies converge and support municipalities in their scope of attributions<sup>13</sup>.

The collaborative actions so far implemented in different Brazilian states are based on<sup>14</sup> actions that work in an articulated manner and mutually reinforce each other

- (i) development of curriculum milestones in dialogue between the state network and municipal networks;
- (ii) the articulation of continuing training of education professionals and support to managers and teachers in the use of external assessments for the management of the educational system;
- (iii) the joint development of pedagogical interventions;
- (iv) support for the management and development of municipal network infrastructure through network planning initiatives;
- (v) optimization of school transport routes;
- (vi) assignment of servers;
- (vii) construction and acquisition of buildings and furniture;
- (viii) in addition to initiatives that seek to align efforts and encourage collaboration and adoption of successful practices.

There is a diversity of examples that show that education networks usually act as an independent system and unrelated to others, whether in the construction of enrollment system, in the policies of continuing education, in the provision of school transport and meals, and many others. In the absence of technical and financial resources for educational networks, it is natural that many networks direct their efforts to the most pressing challenges. Precisely for this very part, there is a strong consensus in the educational community that the search for solutions in coping with the pandemic would be much faster and more efficient if Brazil had a national system that improved governance and the agreement of educational policies among the entities of the federation. In addition to bringing greater clarity about the attributions of each level of government in the complex governance of Brazilian Education, the System would ensure the existence of instances for the negotiation, collaboration and agreement of actions both at the national level and within each state and, above all, could contribute to the reduction of educational inequalities, considering the different realities and institutional capacities of Brazilian subnational governments.

The difficulties arising from the disarticulation between the levels of government, which were already striking in pre-pandemic Brazil, were even deeper and evident in the crisis

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<sup>13</sup> "Education Now!" (chapter 3, p. 58, Todos Pela Educação, 2018).

<sup>14</sup> "Collaboration Regime Guide" (Colabora Movement, 2019).





accentuated by the pandemic of Covid-19. Since 2020, on their own initiative, some state and municipal education networks have used the collaboration regime as a strategy to maintain school activities during the pandemic. At least **12 states**<sup>15</sup> up to date, use collaborative work to cope with the pandemic for the continuity of remote education, distribution of teaching materials, continuing education and measures to reduce school dropout<sup>16</sup>.

This disarticulation is even more critical in the large Brazilian education networks. Some situations are often created due to conflict in the rules of state and municipal networks, such as the recent situation of returning to private school classes. The divergence on the number of students in face-to-face classes, for example, generates legal uncertainty and disarticulation of actions and regulations<sup>17</sup>.

Therefore, a country like Brazil, with autonomous and co-responsible federative entities in the offer of Education, needs a system to equalize the different federative educational conditions and guarantee the constitutional right of Education to every citizen. Ensuring such right to any citizen means delimiting a parameter of satisfactory knowledge from which no Brazilian can be excluded. That goes for any student, anywhere in the country. It is important that the three levels of government can agree on basic standards of infrastructure, construction of services aligned with the National Common Curriculum Base and adaptation of teaching materials for them, policies for training and valorization of teachers, democratic processes of formulation and implementation of educational policies, basic principles of pedagogical and administrative management in the departments of Education, among other key elements for good education management.

This guarantee will only be achieved with the definition and deepening of references and priorities for Basic Education, the improvement of basic education financing mechanisms (in addition to Fundeb) and the implementation of an assessment system that takes care of monitoring students' learning and offer conditions in an articulated way between the three levels of government. It will be essential to establish clear and specific responsibilities for the Federal Government, states and municipalities within the Scope of the SNE, delimiting the functioning of instances of agreement between them.

**The absence of a national regulatory framework that defines a system of governance of federative cooperation generates operational deficiencies to the Brazilian educational system and strongly undermines dialogue, negotiation and agreement between the Union, states and municipalities.** The challenges encountered by educational networks of the lack of a system are from dysfunctional situations in teacher education, to the lack of rationalization of spending and loss of scale in the use of resources of municipal and state networks.

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**15** Internal survey conducted by the Movimento Colabora.

**16** "Education Now Municipalities – Recommendations for the back-to-school plan in the new municipal administrations". (Todos Pela Educação, 2020).

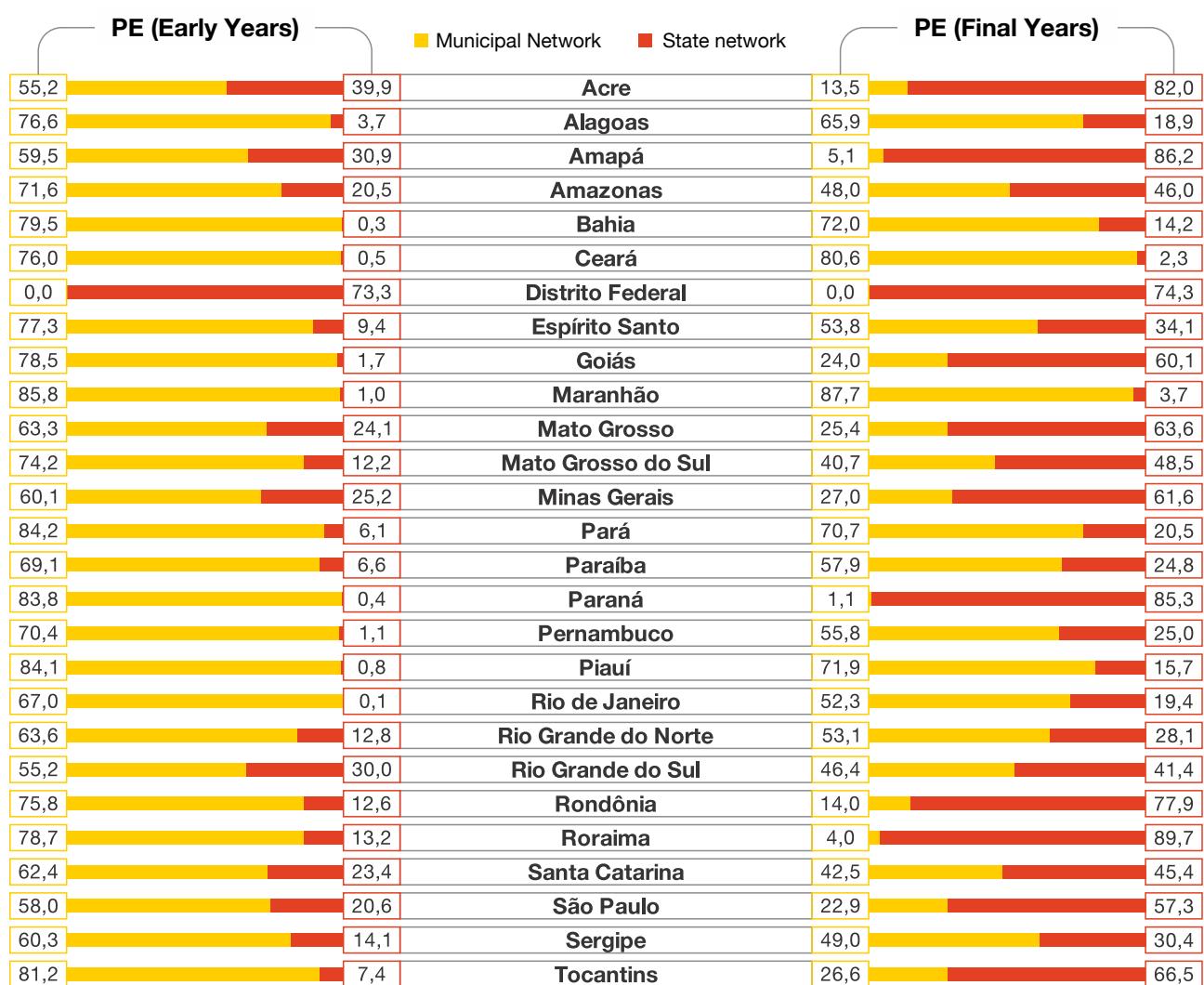
**17** "Mapping the educational debate on the National Education System: what the proposals on the creation of a new instance of agreement say" (Lício, Elaine; Pontes, Pedro, IPEA, 2020)





There are also structural problems in the division of competencies, as is the case of responsibility in the offer of Elementary Education among entities. The shared responsibility in this stage of education between states and municipalities leads to multiple offer configurations, causing some networks to have almost half of Elementary Education enrollments in the early years under the responsibility of the state, while others have all Elementary Education enrollments with municipalities, as can be seen in Figure 1. Although it is not necessarily negative to have different models, the lack of a normative definition built in collaboration between state and municipalities, or even the planning of this offer, ends up resulting in several problems that hinder the management of networks and the students' own school trajectory<sup>18</sup>.

## **FIGURE 1 - DISTRIBUTION OF ELEMENTARY EDUCATION (EF) BETWEEN STATE AND MUNICIPAL NETWORKS IN EACH STATE OF THE COUNTRY**



Source: Own preparation, based on data from the MEC/Inep/DEED - Microdata of the 2020 School Census.



<sup>18</sup> "Education Now!" (Todos Pela Educação, 2018).





For example, the lack of clear definition of responsibilities and negotiation, cooperation and agreement instances impacts on the quality of educational provision and the guarantee of the right to learning. Subnational governments have different institutional and state capacities, so the quality of educational offer and management in Brazil is very poor. Because there is no greater integration and articulation between public education networks, including the sharing of successful practices and the exchange of experiences, there are enormous learning inequalities between networks and even between schools in the same network. Nor is there a look at the student's school trajectory in an integrated way, from Early Childhood Education to Secondary Education. An example of this is the absence of structured processes of transition of students from municipal network to the state network, from the Initial Years of Elementary Education to the Final Years, in places where the Final Years were not fully municipalized, or from Elementary Education to Secondary Education.

The absence of instances of negotiation, cooperation and agreement between Union, states and municipalities in education, either by discontinuity of infralegal instruments<sup>19</sup> due to the absence of regulation of the SNE, it not only makes the entities reformulate and implement educational policies in a competitive and uncoordinated way, but also does not provide agreement on what is a priority and the best way to allocate resources. That is, although it is in the interest of the whole country for a smooth and quality school trajectory for children and young people, each of our managers has incentives to speak only with their own.

At the national level, some policies were configured considering the use of the collaboration regime to be implemented. As previously mentioned, regional inequalities and peculiarities combined with this Brazilian decentralized design lead to the need to agree on policies that establish common standards for all subnational entities. The common National Curriculum Base and Fundeb are solid examples of national policies implemented in an agreed manner among the entities of the federation and successful in emulating national guidelines on curriculum bases and redistribution of resources, respectively<sup>20</sup>.

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**19** In 2007, through Decree No. 6181/07, the Federal Government established instances of interfederative agreement. However, such instances defined in the decree ended up not presenting legal protection in the long term, being susceptible to the discretion of subsequent management of their continuity. More recently, there was the institution of the Permanent Instance of Federative negotiation in the Ministry of Education, in 2015, in the mainstay of the approval of the PNE law.

**20** "Education Now!" (Todos Pela Educação, 2018).





This standard of national guidelines on strategic issues has also been adopted in some countries with a federative structure similar to that of Brazil. In general, Germany, United States, Mexico, Canada and Australia<sup>21</sup> have curricula, quality standards and assessment established at national level, although they do not have a centralized management. This regulation of results at the national level is the main measure adopted in order to improve student learning.

Moreover, these countries present some governance characteristics of their education system that shed light on some guidelines to be followed in the National Education System in Brazil:

- **Decentralization:** Germany, Australia, Canada and the United States have as their main decision-making and implementation instance of educational policies for Basic Education the states, in partnership with local governments.
- **Spaces of agreement:** the state governments in the aforementioned countries have a space for dialogue and agreement, fostering interfederative relations, as well as bringing together the different decision-making instances.
- **Participation:** in Germany, for example, there are deliberative decision-making spaces - councils or state conferences - that promote effective dialogue within the federal structure.
- **Quality parameters:** most of these countries have nationally established curricula or quality standards. They all have national assessments.

In view of this, the regulation of the National Education System must ensure that the autonomy of federative entities is exercised in a coordinated manner, avoiding plasters or prescriptive models that do not dialogue with the local reality. In the light of international examples and good practice at national level, the law to be adopted must ensure that the System has instances of negotiation, cooperation and agreement, and that they have legitimacy for debate and decision-making, in addition to the possibility of mobilizing resources for a coordinated area.

This structural constitution is essential to the System in order to develop, in the long term, a culture of articulated, continuous and suprapartisan work, as we observed in the successful experiences of cooperation already developed in the country. Based on this model, the offer of Education in its different aspects – curricular guidelines, organization and management of skills, training of professionals, assessment, regional organization – is integrated into a governance system. In addition, the establishment of such a structural framework allows the educational networks to perform coordinated responses and gain efficiency in actions; public managers now have solid solution mechanisms for crisis management in a joint way.

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<sup>21</sup> "Multilevel Governance of Education in Federative Countries" (FGV, 2021).



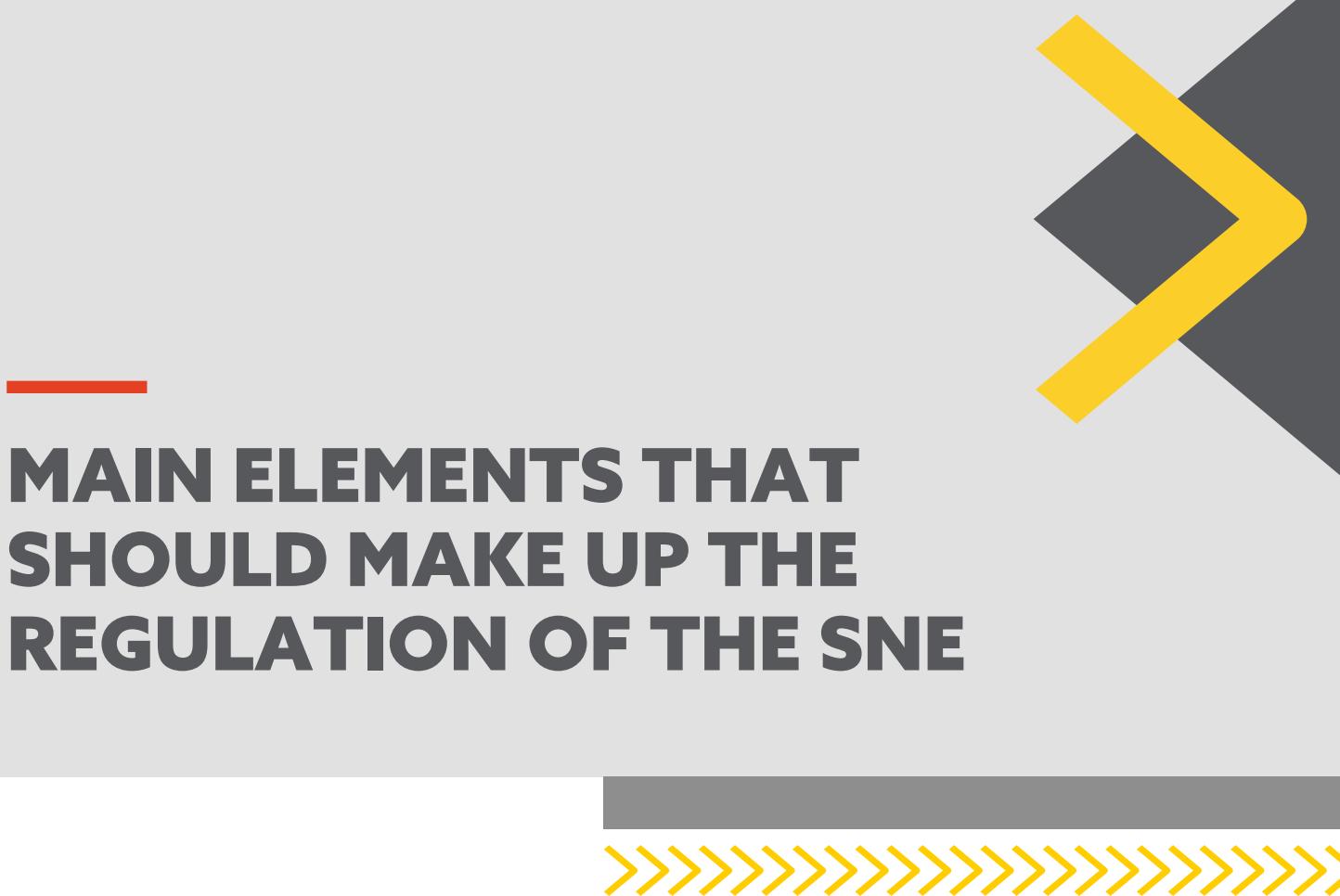


## MAIN CHANGES WITH THE NATIONAL EDUCATION SYSTEM

- **Reduction of inequalities in educational offer:** ensuring that the National Education System equalizes the different federative conditions to any citizen, through the negotiation and agreement of standards, guidelines, norms and educational policies between the different levels of government, with the objective of consolidating the right to Education.
- **Clarity in the division of responsibilities:** States and municipalities will have more precise definitions of their responsibilities in the management of Basic Education.
- **Creation of governance for cooperation between systems:** establishing spaces for agreement and rules of collaboration between teaching systems.
- **Participation of federative entities in decisions on educational policies:** the agreement of national educational policies will necessarily pass through the Federative entities of the three levels of government.
- **Creation of instances of stable agreement and social participation:** through instances of negotiation, cooperation and agreement, decision-making processes will be well established and will facilitate the creation and maintenance of collaboration mechanisms between the Federated entities. In addition, the instances create fertile space to foster and strengthen initiatives for dialogue and social participation.
- **Instruments of federative articulation:** the System will use interfederative agreement instruments that make decision-making and management among entities more effective, transparent and dialogued.

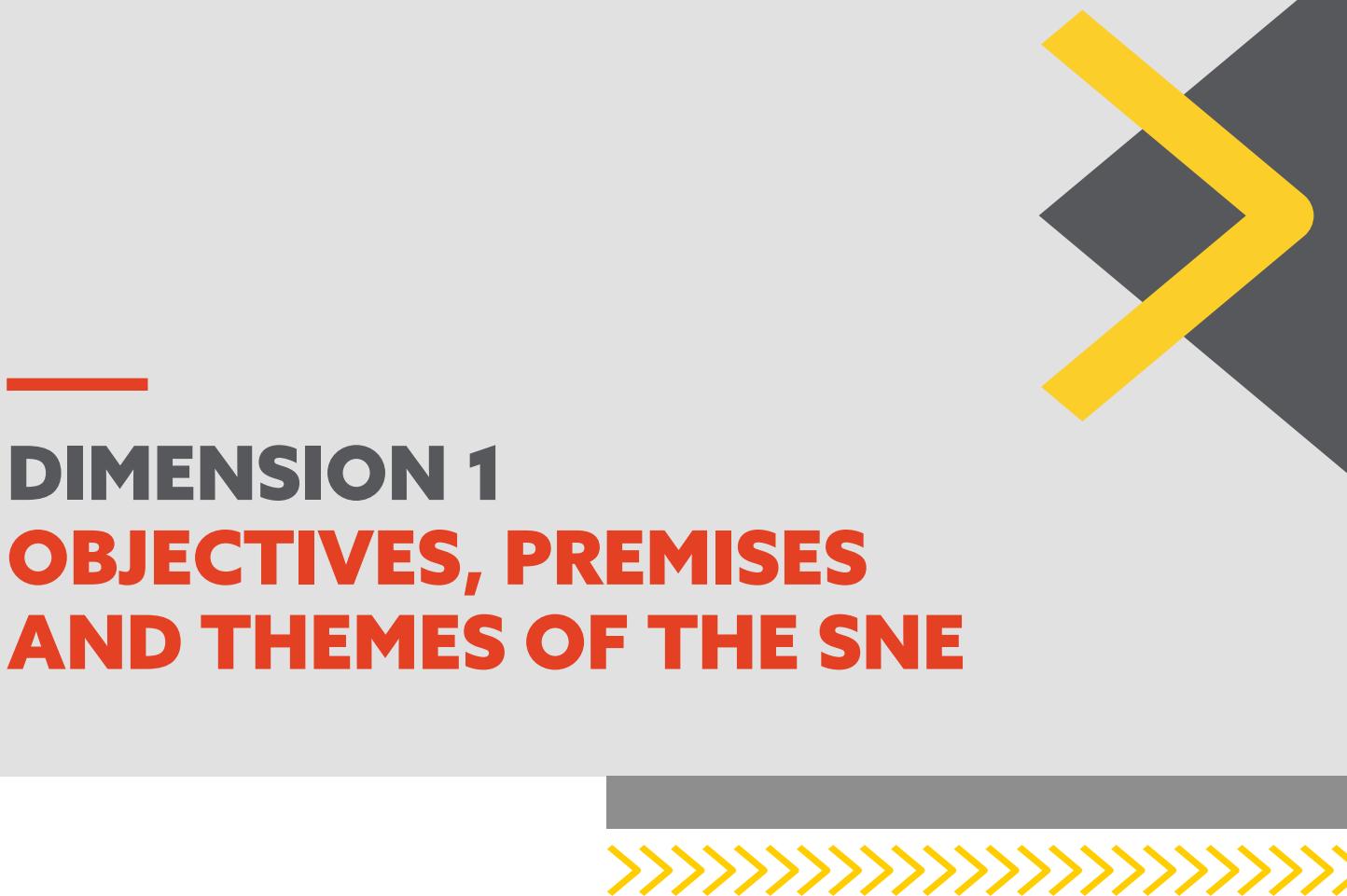
Considering the importance of establishing a National Education System, it is worth explaining what needs to be contemplated and decided for it to exist. In the next section, the main elements that, according to the analyses constructed by Todos Pela Educação, could be addressed in the proposed regulation of the National Education System are presented. In the form of guiding questions of the debate, we point out the technical and political governance challenges that the National Congress will need to address in order to pass the complementary law on the subject. The answers to these questions will materialize in choices that will delimit the characteristics of the Brazilian Education System to be regulated.





# **MAIN ELEMENTS THAT SHOULD MAKE UP THE REGULATION OF THE SNE**

Generally speaking, the current debate seeks to ensure the regulation of a national system that coordinates and distributes the responsibilities of Brazilian Basic Education. To establish a governance model, it is necessary to define a set of objectives (guidelines), processes and fundamental structures so that governance activities are carried out effectively, in order to enable the system to align and manage its objectives to the public interest at the local, regional and national levels, promoting systemic and sustainable improvements in Basic Education. In the next sections, Todos Pela Educação presents a proposal of 10 dimensions constitutive of this System that we suggest are expressed in the complementary law to be approved.



# **DIMENSION 1**

## **OBJECTIVES, PREMISES AND THEMES OF THE SNE**

A constitutive principle in the implementation of educational policies is that the results of this process are not dissociated from the objectives and premises to which they are proposed. But what would be the objectives and premises for the National Education System, since the Brazilian educational system already has legal frameworks and constitutionally guaranteed rights?

To answer this question, it is necessary to understand that the National Education System should be understood as:

improvement in the organization of national Education, supported by a federative pact built in a democratic way and inscribed in a set of national laws, capable of guiding each education system or network so that the inalienable constitutional right is guaranteed, with equity, to each Brazilian citizen.<sup>22</sup>

In this way, the SNE would become an institutional space for collaboration between entities and Brazilian society for Education, with the aim of guaranteeing the right to Education.

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**22** Establishing a National Education System: mandatory agenda for the country. Document presented by the Ministry of Education, in June 2015. Available at: [http://pne.mec.gov.br/images/pdf/SNE\\_junho\\_2015.pdf](http://pne.mec.gov.br/images/pdf/SNE_junho_2015.pdf)



The purpose of any instituted governance system must have the premise of promoting its guiding function, that is, ensuring at the national level the establishment of the direction to be taken, based on evidence and on the interests and demands of the federal entities<sup>23</sup>. Establishing a national system for Education allows us to guide the decision-making process towards the pursuit of the right to Education, especially learning for all Brazilian students. In addition, it must guarantee spaces for federative agreement, participation, social control and be integrated by subnational systems organized in their respective instances and acting in a collaborative manner.

In order for these guarantees to be achieved, it is necessary to be clear among the participants what are the premises and constituent objectives of the system, having as a starting point the organization of cooperative standards and the role of each entity<sup>24</sup>. The premises of the SNE, which will be better detailed throughout this document, should be based on constitutive aspects of the Federative pact; on shared responsibility among entities for the promotion of the right to education in all its scope; on shared management of educational policy; on interfederal cooperation and on transparency and social control of educational policies.

**With regard to the objectives of the system, the priority and structuring objectives should be the full realization of the right to education and the reduction of educational inequalities.** That is, the purpose for the organization and functioning of a system is the guarantee of the right of access and quality to education, with policies capable of leading the country to overcome historical inequalities in the educational field<sup>25</sup>.

The development of the student must be linked to nationally agreed quality benchmarks and the right to education, which must be realized through: **ensuring school trajectory**, that is, to allow the systemic organization of the managerial and pedagogical orientations of the state and municipal networks; **improvement of inputs**, that is, an institutionalized collaboration between the Federal Government, states and municipalities that allows an optimization of the management and improvement of goods and services necessary to have quality in the offer of Education; **continuity of educational public policies**, that is, quality public policies are not lost amid management alternations caused primarily by political factors typical of the democratic regime; **promoting equity**, an objective inherent to collaborative work that allows education systems to have a supplementary role both from a technical and financial point of view, ensuring that students from different regions of the country can have their learning assured; and **promoting the efficiency and effectiveness of financial and non-financial resources**, the management of Public Education must be based with the necessary increase in resources for

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**23** Reciprocal effects between federalism and public policies in Brazil: the cases of Health Systems, social assistance and education (Abrucio, Fernando Luiz; Franzese, Cibele. Federalismo e Políticas Públicas no Brasil, chapter 12, 2013).

**24** "Basic reference of organizational governance-for public organizations and other entities under the jurisdiction of the TCU" (Tribunal de Contas da União, 2020).

**25** "The National Education System" (SASE/MEC, 2014).





Education, on the optimization of material and financial resources<sup>26</sup>.

In terms of Basic Education, it is also important to define the themes in which the SNE will act directly. In other words, which key themes fall under the SNE protection. For example, the management of education systems faces similar challenges with regard to the performance of school transport, teaching materials, curriculum, integrated planning of offer, shared external assessment, assignment of servers, infrastructure and agreement of teaching policies, among others.

Some questions are necessary to delimit which premises, objectives and themes should be respected and covered in the complementary law to be approved:

## Premises and objectives of the SNE

- What premises should be considered for the institution of the SNE? And how to make them structuring and inseparable axes in the constitution of the system?
- What objectives should be established within the scope of the SNE that are based on a set of empirical evidences of the Brazilian educational reality?
- Which of these premises and objectives are already contemplated in other legislation and should be brought into the system? And what should not be replicated?

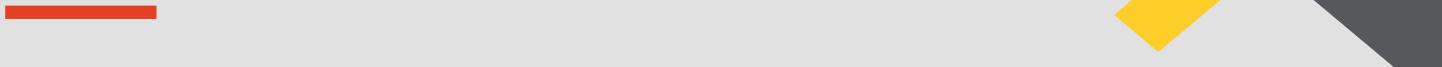
## Key issues to be discussed within the SNE

- Should a minimum list of themes be established with the negotiation, cooperation and agreement instances or should the scope of deliberation include all the issues that encompass Basic Education?
- If a minimum list of themes is established, which ones should be prioritized, why and what parameters will be established for such choice?
- Should these essential themes be distributed to the negotiation, cooperation and agreement instances depending on the level of complexity for their resolution?
- Is there a need to set deadlines for the agreement of certain topics? If so, of what topics?

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**26** A common example is the sharing of vehicles and school transport routes for students from state and municipal networks. This efficiency can also be achieved in the technical scope, such as staff sharing or advisory or training services, which can be hired by more than one network,





## DIMENSION 2

# COMPOSITION OF THE SNE



To establish a governance model, it is important to define a set of guidelines, processes and structures necessary for governance activities to be carried out<sup>27</sup>.

The first step in defining this model is to identify the internal instances of articulation and support for governance. Next, it is crucial to assess the need for such instances within the structural design, in addition to their purposes, composition and clearly defined attributions and whether the articulation mechanisms between these instances allow agility and accountability in the decision-making process. The definition of the instances of negotiation, cooperation and agreement are key pieces in order to resolve the constraints present due to the lack of guidelines for collaboration regimes.

As already mentioned in the previous section, the lack of coordination in the articulation between states, municipalities and the Union generates obstacles and inefficiencies in the provision of Basic Education in the different stages. That is, problems in the management of enrollment, meals and transportation, continuity and overlap of programs, among others, can be resolved by establishing instances of negotiation, cooperation and agreement within the System. At least two instances should be designed, as already seen from national and international good practices: a national-level instance and instances at state level.

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<sup>27</sup> "Basic reference of Organizational Governance - for public organizations and other entities under the jurisdiction of the TCU" (Court of Auditors of the Union, 2020).



In general, the national instance is assigned the role of regulating national guidelines, primarily in what is consistent with the assessment systems. On the other, state instances are more frequent in countries that have a high degree of decentralization. Its existence at the subnational level is due to the promotion of the quality of education according to the diversity and regional and local peculiarities. Considering the Brazilian federative configuration, these instances are respectively the **tripartite instance**, including the Union, states and municipalities; and the **bipartite instances**, covering the state and its respective municipalities<sup>28</sup>.

In summary, the legislation to be approved should establish the responsibility of the highest governance instance for the agreement between each level of government. In addition, other minimum governance guidelines should be contemplated, such as the review of the organizational strategy and the topics subject to agreement, the supervision of management in the negotiation bodies, cooperation and agreement, and the accountability in the decision-making of the actors belonging to these instances.

It is important to emphasize that qualified decentralization, defining the competencies of the subnational negotiating, cooperation and agreement instances and support bodies, is fundamental for the coordination and distribution of decision-making power in our federative structure. The questions that should be solved to build a regulation law well designed in these aspects are:

- How should the structure composition of the National Education System be?
- Which instances would be defined in the context of the articulation of subnational entities (states and municipalities) and those with the Union?
- Which instances should be made up of the negotiating, cooperation and agreement instances?
- Which bodies will have the role of organizing, monitoring and advising in the SNE?
- How can SNE create structures to improve the dialogue between decision-making authorities at each level of government and regulatory bodies based on existing legislation?
- How to ensure that structures created in SNE foster effective information flows between the negotiation, cooperation and agreement instances and the technical, normative and social participation instances?

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**28** "National Education System and the Collaboration Regime between Federal Entities: Systematization document of the discussions of the working groups promoted by the Movimento Colabora Educação for the identification of challenges of coordination and agreement of public policies in Brazilian Education and the importance of the regulation of the national system for the sector" (Movimento Colabora, 2019)





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## **DIMENSION 3**

# **ASSIGNMENT OF INSTANCES WITHIN THE SCOPE OF THE SNE**



Once the actors and instances of negotiation, cooperation and agreement that make up the National Education System are defined, a third essential dimension for the constitution of the governance structure consists in the attributions, that is, the competences of the interfederative instances. This dimension constitutes the pillar for the feasible functioning of a system that encompasses regional and local peculiarities, as well as the Brazilian territorial extension.

The possible instances, established both at the national level (considering the three federative entities), and at the subnational level (considering state and municipalities or between similar federative entities), must have clear attributions in their performance and in the joint decision regarding the directions of basic education policies.

However, here it is necessary to make a relevant differentiation: the attributions of federative entities are already instituted in the CF 1988 and in the Law of Guidelines and Basis of National Education (LDB). SNE will establish the cooperation relationships of these entities so that each achieves the expected results in its constitutional and legal attributions. It is, therefore, in the scope of the negotiation, cooperation and agreement instances to be established at the national (tripartite) and subnational (bipartite) level that we must define clear tasks in the action and joint decision-making regarding the directions of education policies.



The tasks of the negotiation, cooperation and agreement instances must respect, within the scope of the SNE:

- a) **prerogatives and responsibility for the initiative**, without allowing ourselves to fall into the same error that we experience today of overlapping assignments, especially in the classic example of the offer and management of elementary education; and
- b) **qualified decentralization**, ensuring coordination and the stable and dialogued exercise of the pact, with the distribution of decision-making power that contemplates the democratic principle, preserving the autonomy of the entities.

Installed this new space for deliberation and negotiation in the System, it will be necessary to permanently seek cohesion between the decisions of each instance of agreement and their respective councils with normative function, respectively the National Council of Education (Conselho Nacional de Educação - CNE), the State Councils of Education (Conselhos Estaduais de Educação - CEE) and the Municipal Councils of Education (Conselhos Municipais de Educação - CME), in the case of municipalities having their own systems with normative function.

## **Attributions of the negotiation, cooperation and agreement instances**

- Respecting the division of responsibilities between the entities, how to define clear attributions between the negotiation, cooperation and agreement instances?
- What themes that will be the object of the SNE should be deliberated in each instance of agreement (tripartite and bipartite)?
- How should the interlocution of the negotiation, cooperation and agreement instances with the normative and social participation and control bodies be? What deliberations need to be taken in the instances and what needs to be discussed with the policy-making bodies?





## **DIMENSION 4**

# **DELIBERATION ON NEGOTIATION, COOPERATION AND AGREEMENT INSTANCES**

The design of the interfederative instances with the function of establishing spaces of agreement between the entities, in addition to the challenges already mentioned in Dimension 2, also has two crucial points to be solved: delimit the decision-making models of these instances, without violating the autonomy of the federated entities; and, therefore, delimit the scope of decision-making between the entities, considering and respecting the constitutional autonomy, observing the attribution of articulation between the federated entities.

Moreover, the great achievement in the institutionalization of the negotiation, cooperation and agreement instances is to provide that the expectations of federal entities, previously susceptible to distancing themselves from the political and technical decisions of the federal sphere of subnational entities, reconfigure themselves so that they can have the right to participate in the decision-making of the country's educational policies.

Deliberation in the negotiation, cooperation and agreement instances allows decisions taken to be preceded by clear and predictable processes to ensure local specificities. Therefore, it is essential that some rules of negotiation and deliberation be adopted in order to facilitate, improve and make representative the resolutions agreed. An example of this is the possibility that the decisions of the instances of negotiation, cooperation and agreement may be based on: i) simple or qualified quorum in the deliberations of the negotiation, cooperation and agreement instances; ii) consensual decisions; iii) cast the deciding vote in the event of a tie; iv) rules fostering the representativeness of entities in the negotiation

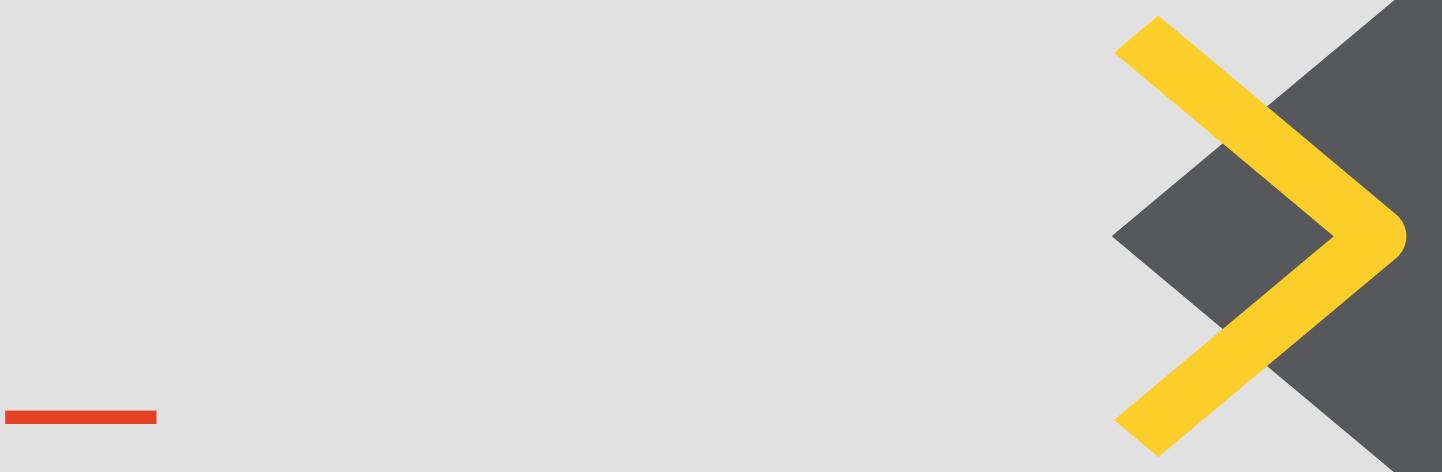


and deliberation process. In addition to these points listed, it is worth considering which other organizations linked to education should also have their participation guaranteed within the instances of agreements and whether they would have an advisory role or the same voting power as the federated entities in decision-making. In this context, some questions need to be asked:

### **Deliberation of the agreement instances**

- How will the decision-making process take place in the negotiation, cooperation and agreement instances and their respective bodies? Will consensual deliberation mechanisms be adopted?
- How to ensure the connection of the decisions of the instances of negotiation, cooperation and agreement with the Councils (National, State and Municipal) to give normative force to the deliberations of these instances? Which decisions need normative force and which do not?
- Once the tripartite commission is established, does the existence of the intergovernmental commission created with the regulation of Fundeb separate from the SNE make sense? If not, is it up to the tripartite instance to assume the attributions of the Fundeb intergovernmental commission?
- Are there other interfederative instances that could be absorbed by the SNE?





## **DIMENSION 5**

# **QUALITY PARAMETERS**



Since 1996, the Federal Constitution establishes in its article 211 that the Union must exercise a redistributive and supplementary function in education, seeking to equalize educational opportunities and ensure a minimum standard of teaching quality. More recently, with EC 108/2020, the Constitution also begins to define that this minimum standard of quality should consider the "adequate conditions of offer and will have as reference the Quality Student Cost", determined by complementary law that regulates the cooperation between the different levels of government in the educational field. This law is that of the National Education System, which should deal with these offer conditions and the Quality Student Cost.

It is notorious that the absence of regulation of the National Education System, until today, has resulted in serious gaps and weaknesses for national Education. Among the consequences directly related to the absence of a system that organizes governance for cooperation between systems are the absence of agreement of the national guidelines of quality of Education specified in the Constitution, which would serve as a parameter for aligning expectations between the different levels of government and to guide the Union's additional action in search of equalization of opportunities. The lack of regulation is also one of the factors that contributes to the discontinuity of actions, the fragmentation of educational policies and programs and, finally, the lack of articulation between the spheres of government.

These factors contribute to the difficulty of overcoming the country's historical economic and social inequalities. Despite the advances made in school education in recent decades, the inequalities that are still very present are evidenced in the face of the subjects of deprivation: black students, browns, migrants from the countryside and from poorer regions of the country, peripherals and people outside the regular age group.



In the context of the System to be established, it is essential to consider that, in order for the right to Education to be met, the technical and financial conditions of the educational networks need to be guaranteed, as they will affect the other conditions of the offer. An attractive, well-structured, well-equipped school that has adequate pedagogical material and with well-trained and valued professionals provides favorable conditions to democratize educational opportunities. This is not yet the reality in many Brazilian public schools.

Therefore, if we are talking about equity, it is necessary to understand what are the basic benchmarks of quality and the costs linked to these parameters. With these references, it is possible to contextualize and direct the agreement of technical assistance and resource transfers between the different levels of government, seeking to reduce inequalities in education financing and ensure equalization of available resources for educational provision, in dialogue with the context of each educational network.

It is understood that the above changes should be regulated by the complementary law that will establish rules for cooperation between the Union, Federal District, states and municipalities provided for in the sole paragraph of Art. 23 of the Federal Constitution. In Education, this law is discussed and provided for in the National Education Plan as the National Education System Law (SNE).

It is necessary to express, given the current context of the debate, the fundamental importance of mature and in-depth federative agreement of the minimum quality standard and the Quality Student Cost, in order to ensure technically solid, sustainable and complete designs, as well as to avoid hasty processes of obstruction of public policies that are counterproductive to the advancement of educational opportunities for students.

The issues should be discussed and contemplated in the SNE complementary law, organizing the definition of the main components of the minimum quality standard and referring the decisions to the infralegal instrument built and agreed upon in interfederative instance, as established in article 211 of the Federal Constitution from EC 108/2020:

"Article 7 The minimum standard of quality referred to in § 1 of this article will consider the appropriate conditions of offer and will have as reference the Quality Student Cost (CAQ), **agreed on a collaborative basis** in the manner provided for in a complementary law, in accordance with the sole paragraph of Article 23 of this Constitution".

Some premises should be considered in the definition of minimum quality parameters. The first is that bringing the definition of quality to the SNE is fundamental to ensure that entities ensure, per student, the development of the teaching and learning process. In other words, establishing such quality parameters allows managers to have references of technical criteria to improve the quality of teaching.

Although the guarantee of the minimum quality standard is present in Brazilian legislation and in studies in the educational field, the operationalization of these mechanisms has not yet been carried out, given the complexity of their definition and agreement.





The second premise permeates the debate, in addition to methodological approaches to the definition of the quality parameter, on how to ensure that the method to be developed guarantees and understands the various regional and local specificities present in the education systems, in addition to the efficiency and effectiveness of educational networks. The negotiating, cooperation and bilateral agreements instances established in the SNE emerge as the main mechanism for the construction of the quality parameter.

The third premise to be considered is the linking of the minimum quality parameters to the National System of assessment of Basic Education in order to measure quality and conditions of offer based on national references.

The combination of managing instances and regulatory instances is critical. In the SNE, this articulation must be explicit, with defined main attributions (one of which is the parameters) for each federative entity and in the negotiation, cooperation and agreement instances. The SNE has to make clear the quality it wants and what work – path taken – will be done to achieve this.

Two points of attention arise from this discussion and are important questions to be answered in the regulation of the SNE:

- How in-depth should the guidelines on the formulation of national quality and QAC parameters be included in the NSS? What elements need to be included in the law and which should be delimited in an infralegal way?
- Is it desirable to have national quality parameters and CAQs contextualized to the different regions of the country, depending on the difference in input costs and heterogeneity of educational processes, even if calculated respecting the same methodology?
- If the option is for decentralized design, what would be the role of the tripartite agreement instance and the bipartisan agreement instances? Would it be possible to define national guidelines for the formulation and definition of subnational parameters and CAQs, according to local specificities?
- Who would be responsible for supporting the formulation of the methodology and definition of the parameters in the negotiation, cooperation and agreement instances?





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## DIMENSION 6

# ASSESSMENT



A national assessment system for Basic Education should exist with the objective of diagnosing the quality of the educational offer, focusing on the permanent improvement of education indicators aimed at student learning and institutional assessment. In other words, a national assessment system – and not only federal – allows the participation of federal entities with broader and more diverse assessment processes, aimed at producing more subsidies for the formulation and improvement of educational policies, as well as for the development of more inclusive and equitable educational processes<sup>29</sup>.

This theme brings with it an accumulation of almost 30 years of experience with the Basic Education Assessment System (Saeb), which is provided for in the National Education Plan (PNE), in addition to technical meetings with experts in the field of assessment in 2015 and 2016. It is necessary to grasp the experience of educational networks in the field of assessment, in the participation and implementation of educational exams. Today, several states and municipalities have their own assessment system, which, although often aligned with the assessments promoted by INEP, are not in fact integrated, generating duplication of instruments, inefficiency in the use of resources and, sometimes, conflict between methodologies and assessment scales used.

In addition to the need to establish an integrated national assessment with subnational assessments, it is important to emphasize the relevant dimensions to be considered in the assessment, without prejudice to the others to be considered: i) the trajectory and learning of students; ii) the profile of students and Education professionals; iii) the offer capacity, infrastructure and pedagogical resources available; iv) the management processes; and v) the

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<sup>29</sup> National system of Assessment of Basic Education (Sinaeb): Proposal to comply with the provisions of the National Education Plan



working conditions of Education professionals.

The results of this broad assessment must be considered for the agreement in the tripartite and bipartite instances, guiding the redistributive and supplementary mechanisms (technical and financial) in order to concretely guarantee quality Education for children and young people.

The essential thing to ensure quality in Education are the references systemically combined with well-conducted management processes. Such an arrangement could make the minimum standards of educational opportunities really materialize as a right of each citizen when accessing the educational public service.

In addition to the educational impacts, a national assessment linked to the SNE guarantees a governance space in which the decision-making process allows the participation of entities and a space for consultation that involves the different actors in the educational process, agreeing on the assessment mechanisms and avoiding overlapping or misalignment in the assessment process.

The following questions should be considered when thinking about evaluating the SNE:

- How should governance regarding assessment in the SNE be defined?
- How to institute a national assessment that encompasses the quality of the educational system and at the same time is a mechanism for improving the adopted educational guidelines?
- What educational standards should be considered when assessing a national assessment?





## **DIMENSION 7**

# **INSTRUMENTS OF INTERFEDERATIVE AGREEMENT**

In addition to defining negotiation, cooperation and agreement instances, quality parameters and national assessment mechanisms, it is essential to provide, in the SNE regulation, mechanisms capable of inducing regional cooperation and collaboration initiatives. These instruments must be articulated with regulations, monitoring and implementation models, among other elements that are part of the formulation and implementation of educational policies aimed at guaranteeing the right to Education.

Despite such instruments already being tools with legal support and used in educational management among entities, the objective that must be put on the table is to strategically raise such cooperation and collaboration initiatives to the position of structuring mechanisms for the functioning of the System. Here we list 5 instruments – Ten-Year Plans, Covenant, Articulated Action Plan (PAR), ADEs and Public Consortia – that transit between the planning and management of teaching systems, are achievements of Brazilian educational policy and currently constitute the main initiatives of cooperation and regional collaboration.

The first of these, the main planning tool for teaching systems, consists of the Ten-Year Education Plans. They structure the coordination of education systems, as they aim to establish goals and priorities in educational policies to be implemented. They must, therefore, be the guiding principle of educational policy at each level of government.

The articulation of the plans constitutes a strategic and indispensable aspect to be considered as a binding norm for the SNE, being the effective articulation between the National, State and Municipalities Plans of Education the materialization of the long-term planning of educational policies in the country.



This mechanism, understood as an articulated ten-year planning action, should reinforce the idea that national goals are achieved in every part of the country where there is a person whose right to education must be guaranteed. This conception should avoid the mechanical transposition of national goals to subnational plans, given the need to consider regional differences and inequalities. It is important, therefore, to reinforce the technical capacity of each educational network so that it makes an accurate reading of its local contribution, to its region and to Brazil.

In addition, aiming to promote the articulating role of the National Education Plan and because they are plans delimited for municipal or state territories, it is important that there is an effective and efficient articulation of the ten-year plans of these territories with government planning instruments, such as the Multianual Plans (PPA), strategic management plans and other financing mechanisms.

Currently, ten-year plans have been hampered both by circumstantial aspects of management and by the overlapping of priorities between the different spheres of management. As an example, at the federal level, we can see that the programs created by the Ministry of Education with the aim of achieving the goals set out in the National Education Plan are susceptible to management changes, both at the federal and subnational levels, often jeopardizing the continuity of the planning and implementation process, in addition to improving these initiatives. This directly impacts the planning of subnational governments, especially in those programs where technical capital and resources from the Federal Government are needed.

By establishing ten-year plans as planning tools for educational policies, the instances of agreement will oversee the implementation of these tools and articulate decision-making around goals, conditionalities and preferences for conducting educational policies from local to national level.

Financial management instruments or technical support include decentralizing and equalizing policies for mandatory financial resources for Education, such as Fundeb; resource transfer instruments such as direct mandatory and voluntary transfers, permitted by specific legislation; and instruments of cooperation between federative entities, such as agreements, the Plan of Articulated Actions, arrangements for the development of Education<sup>30</sup> and consortia.

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<sup>30</sup> Arranged in Bill 2417/2011, authored by the department. Alex Canziani (PTB/PR).





Widely disseminated in Public Administration, the agreement is defined as an instrument between the Government and public or private entities for the achievement of objectives of common interest, in the face of mutual collaboration<sup>31</sup>. Therefore, agreements are made with the aim of promoting projects, activities, services, acquisition of goods or events of interest to different entities, under a cooperation regime. It is worth mentioning that the agreements are intended to operationalize voluntary transfers, that is, financial transfers that do not result from constitutional or legal transfers. They do not have a common planning element between the entities, as they delegate the execution of the resource, which is monitored only in the accountability phase, which is highly complex, as it requires demonstration of strict compliance with the work plan and ignores the possibility of sharing governmental capabilities. Therefore, it is characterized by rigidity in the definition of actions and formalism in the control of execution, proving to be ineffective for the agreement and implementation of continuous and long-term joint initiatives, especially when multiple actors are involved in the process.

Among the financial efficiency improvements to resolve the incongruities that the agreements raised, in 2007, specific legislation that established the Articulated Action Plan (PAR) as an instrument of voluntary direct transfer was approved, transforming it into a permanent policy. The PAR is nothing more than a set of actions, supported technically or financially by the MEC, to guarantee the fulfillment of the goals present in the Plano de Metas Compromisso Todos pela Educação [Plan of Goals Commitment All for Education]<sup>32</sup>. The states and municipalities adhered to this plan, allowing for qualified governance in voluntary transfers from the Union to subnational entities.

Prior to PAR, such transfers were carried out based on voluntary transfer legislation from the Federal Government, associated with specific program resolutions formulated by MEC and FNDE to states and municipalities. The analysis of proposals was not very transparent, one-dimensional and fragmented for subnational entities, with little interaction between the Federal Government and subnational entities<sup>33</sup>.

With PAR, there were gains in the financial and budgetary management of Education, since it created mechanisms for negotiating transfers, reducing the Union's dependence on agreements with states and municipalities, and institutionalized an Education planning instrument shared between the Federal Government and subnational entities.

With regard to cooperation between municipalities and education development arrangements ("ADEs"), the Final Report of the MEC GT-ADE published in July 2015<sup>34</sup> it presents conceptual and legal constructions, advancing in linking the debate of this theme with the institution of the National Education System. A diagnosis was presented about existing arrangements and,

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<sup>31</sup> Di Pietro, Maria Sylvia Zanella. Direito Administrativo. Rio de Janeiro: Forense, 2019, p. 698.

<sup>32</sup> Decree No. 6.094/2007.

<sup>33</sup> "Policy implementation and action of public managers - recent experiences of inequality policies" (Chapter 8, IPEA, 2020).

<sup>34</sup> "Final GT-ADE Report: Ordinance No. 1238 of October 11, 2012" (MEC, 2015).





consortia exposing evidence of educational inequalities in different locations in Brazil and establishing possible collaboration mechanisms.

Such arrangements are still awaiting the approval of their regulation, now addressed in Bill 5182/2019 (added to Bill 2417/2011), which allows cooperation between federal entities with geographical proximity and similar social and economic characteristics, in order to promote the exchange of experiences and joint solution of problems related to Education<sup>35</sup>. The form of institution of the Arrangements provides for the coordinated action of public institutions of Education and all other institutions, public and private, based in the municipality and with a clear interest in promoting the improvement of Education in the territory covered. These arrangements, as stated in the MEC GT-ADE, have certain limitations on direct access to public funds (including Fundeb), which should be a point of reservation in practical terms and formal implications for the allocation of public funds.

In relation to the Public Consortia, despite being little widespread in the field of Education, they need specific legislation in each of the municipalities involved for their institution. By Law No. 11.107/2005, the consortium consists of a public association or legal entity of private law, which can be contracted, with exemption from bidding, by any of the entities of the Consortium members of the Federation. This is an agreement between municipalities or between municipalities and the state (in this case, whether or not the Union participates) around common objectives.

That said, from the analysis of the instruments in force mentioned above, it is possible to reflect on the need for improvements for a better management of the financial resources of Education. It is important that such instruments, or any other one that may be created, expand the scope of the possibilities of agreement between entities, dialogue with local needs and do not restrict themselves to the need for agreement between the Union and subnational entities, but also contemplate states and municipalities.

One of the major challenges for the functioning of the System is to improve the instruments of collaboration and cooperation, so that they have satisfactory and efficient use between the negotiating, cooperation and agreement instances and the entities. As each of the Federative entities is autonomous, it is essential that improvements or new legal instruments be debated to reduce bureaucracy and make transfers between them more flexible, in order to develop collaboration between the entities of the federation and respond to the challenges of the daily management of Basic Education.

The questions that should be solved for the construction of a complementary law that regulates the Federative agreement instruments within the scope of the dynamization of the collaboration regime should be:

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**35** In December 2020, the National Education Council unanimously approved resolution CNE / CP No. 1 of October 27, 2020, which, among other objectives, defined the operational guidelines of the ADEs – the document is awaiting approval by the Minister of Education.





- What are the best existing interfederative agreement instruments that can be used in education? How does its purpose align with the governance of the SNE?
- How can these instruments of agreement be improved? Is there a need to formulate new legal instruments to address the limitations of existing instruments of agreement?
- Should there be referral to interfederative agreement instances in order to promote assessment and monitoring mechanisms?
- How can interfederative agreement instruments guarantee the distribution of attributions and responsibilities among the signatory entities, both for the provision of public school Education and for the execution of related activities?
- How can interfederative agreement instruments guarantee the distribution of attributions and responsibilities among the signatory entities, both for the provision of public school Education and for the execution of related activities?





## **DIMENSION 8**

# **FINANCIAL RESOURCES**

The System is made with people and resources. This means meeting all the necessary conditions to give robustness to the main reason of the system: the guarantee of the constitutional right expressed in Article 205 of the Federal Constitution.

The way in which fiscal resources are distributed among the Federative entities, so that all have revenues compatible with their responsibilities, is a central issue of any Federative regime and is structuring of the National Education System.

The approval of constitutional amendment 108/2020 (New Fundeb) consists of the allocative improvement of a considerable part of the financial resources available to education. This achievement sheds light on the need for alignment in discretionary and mandatory transfers to basic education at the levels of government that will receive them, seeking to further improve the basic education funding structure in the country. Currently, this management is strictly under the responsibility of the MEC and, added to the poorly articulated demand of subnational entities, makes the ad hoc budget predictability, especially of voluntary transfers, which are defined according to the discretion of the MEC and not necessarily married to local demands.

Thus, a first point to be considered is that the voluntary transfers of the MEC are agreed in the Tripartite Commission, so that the interests of the Union dialogue with the demands of subnational entities. Another point that deserves to be highlighted is that the predictability of the budget deliberate in the instances of negotiation, cooperation and agreement is also important for resources that make up the national counterpart of loans, grants or other applications. Allowing the budget for Basic Education to be agreed mitigates possible scenarios of low budget execution in the MEC and paralyzed resources in the accounts of subnational entities. As examples of this problem is the allocation of part of the PDDE resources in the fight against the



pandemic in school units<sup>36</sup>. The deliberation in the agreements instances would allow a more strategic knowledge of the MEC about the local demands and realities and could even envision adjustments in the transfer linked to this federal program, discussing with the needs of the entities directly responsible for coping with the crisis of Covid-19 in Education.

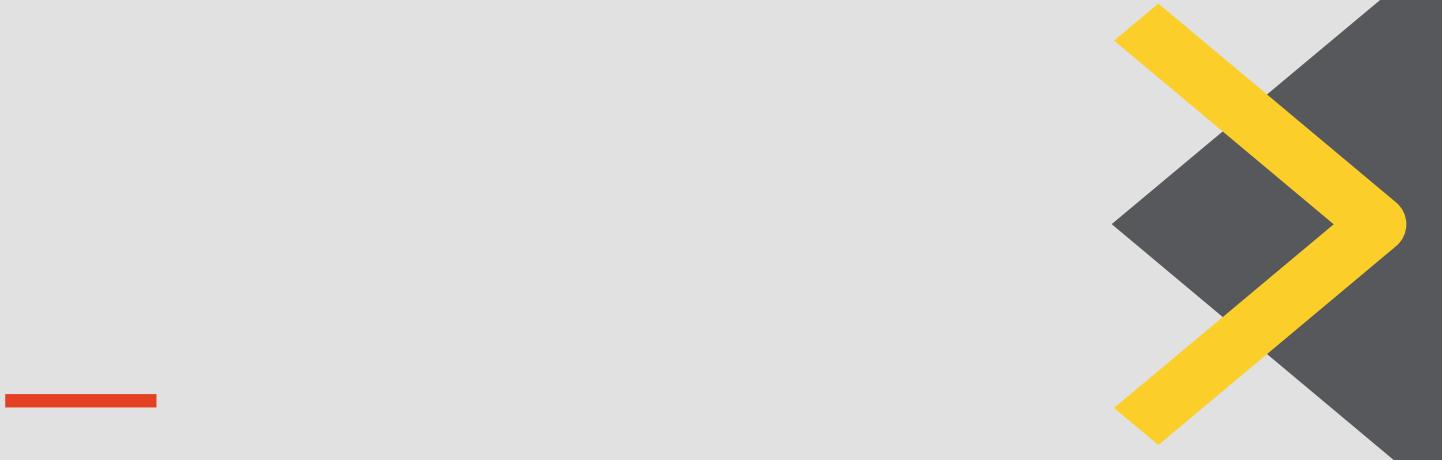
Some questions, in general, are salutary on this topic under discussion:

- Should any voluntary transfer (so-called discretionary transfers) be preceded by an agreement?
- What should be the elements agreed in the tripartite instances in relation to the compulsory transfers of the MEC?
- If negotiating, cooperation and agreement instances are allowed to deliberate on transfers of Basic Education budget, to whom should such competence be granted: to the tripartite instance or to the bipartite instances?
- How can we ensure that the agreement of transfers in the field of Basic Education does not take the autonomy of the Ministry of Education?

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<sup>36</sup> "6th Bimonthly Budget Execution Report of mec" (Todos Pela Educação, 2020).





## **DIMENSION 9**

# **TRANSPARENCY, PARTICIPATION AND SOCIAL CONTROL**



Transparency, participation and social control are three key elements for good governance and some of the main challenges for the implementation and assessment of educational policies today, whether nationally or locally. The absence of regulation of the SNE is one of the key points in the fragility of participatory formulation and social control of educational policies in Brazil.

In general, governance instances should periodically assess whether the governance model is appropriate to the mission and complexity of the institutions, if it incorporates best governance practices, if it meets internal and external standards and if it creates the conditions favorable to the achievement of the results expected by stakeholders. To fulfill this responsibility, the negotiation, cooperation and agreement instances can rely on specialized bodies. Attention should be paid to the discussion on the Constitution of the SNE, who is responsible for exercising this function, whether in the creation of a specific commission for this purpose, or in the shared management to exercise control among the entities and instances belonging to the system.

Participation and shared management practices open spaces for conciliation of interests, promote the mediation of regulatory principles and mitigate conflicts of interest due to negotiations and debates, since they enable decentralization and promote decision-making based on principles of participatory democracy. In addition, they ensure that participation in negotiation, cooperation and agreement instances is a right itself. Forums and councils are important spaces with representations of civil society that should be fostered and



articulated to the SNE in order to guarantee such premises. It is these forums and councils that allow the construction of new policies and the improvement of existing ones to dialogue with the plurality of interests and local contexts, promoting a qualified debate for Education.

Regarding transparency, what should prevail is that decision-making is informed by evidence and technical criteria, following the principles of Public Administration, as well as contextualized to local specificities. It is essential that all decisions are widely publicized, so that there is control both among entities and external actors over the measures adopted.

It is important to emphasize that the dimension of transparency, participation and social control enables the timely contribution of society, control bodies and other spaces for deliberation so that the SNE becomes efficient and achieves its objective of guaranteeing the right to education. Fundamentally, it is an essential point of contact between society and public managers, whether in consultation with decision-making, or in visibility about decision-making and control over the use of resources. For this to be effective, it is important that some decisions are made, based on some inquiries:

- Under what aspects should mechanisms of social control and transparency be established in the structural framework of the SNE?
- Who will have the responsibility to exercise the function of social control and transparency of the system? Will such attribution be carried out by a specific commission defined as an organ of the SNE or will the system articulate organically with existing institutions?
- If a specialized body for transparency, participation and social control is created, how will its composition be made, what will be its function and attributions (advisory or deliberative), how will it integrate with the other councils and what decision format for its composition?
- Given the existence of monitoring instances that, despite different scopes, include the same actors in their governance, such as the FUNDEB Monitoring and Social Control Council (CACS) or the School Feeding Council (Conselho de Alimentação Escolar - CAE), is it desirable that these monitoring instances and social control of specific programs and policies are also inserted in the structure of the SNE?
- How can we ensure that a specific body for transparency and social control exercises effective mechanisms of control and accountability over entities, guarding their respective constitutional autonomies?
- How to articulate the spaces of participation to the structure of the SNE, such as education forums and conferences? Should these existing spaces of participation be incorporated into the System in a specific instance, should they have organic dialogue with the deliberation bodies, or should new forums and/or councils be created in the structure of the SNE?





# **DIMENSION 10**

## **DEADLINES AND MECHANISMS FOR ENSURING COMPLIANCE WITH THE LAW**



In addition to the structuring standards of the SNE, a crucial point for full system performance is to understand the need to insert mechanisms within the SNE in order to resolve non-compliance with the agreed decisions. The collaboration between teaching systems comprises its functioning, that is, the way in which the National System is organized as a system of systems.

The approval of the complementary law should also include structuring and delimiting deadlines for the implementation phase of the National Education System. Therefore, there are some questions about this theme that need to be answered in the institution of the SNE:

### **Mechanisms to ensure compliance with the law**

- What provisions should be formulated and implemented to ensure the effectiveness of the SNE, respecting the autonomy of the Federative entities?
- Does the structural framework of governance, comprising objectives, composition, instances and functions, ensure the proper functioning of the SNE? Are there other elements that need to be included?
- What measures should be taken in the event of non-compliance with the agreed decisions or the non-action of the entities and articulating instances of the SNE?
- What regulatory provisions regarding non-compliance with the agreed decisions need to be provided for the good implementation of governance? What are the risks and benefits of its implementation?



- Should the measures adopted in cases of non-compliance with the agreed decisions be of an administrative nature only or should they extend to budget transfers?

## Implementation deadlines

- Which PLP devices need term for implementation?
- Is it necessary to set deadlines for setting up committees? Should they be instituted concomitantly or sequentially?
- Do the deadlines set in the Fundeb Regulation Law impact on SNE regulation? If so, what should be done within the SNE to dialogue with the Fundeb deadlines?





# FINAL CONSIDERATIONS

Revisiting the federative and collaborative dialogue of Brazilian educational policy, in order to establish a system of national governance, projects a new route long sought for the planning and implementation of educational policies. These policies are now structured in a collaborative system with the potential to considerably improve the condition of educational networks to ensure the right to education of Brazilian students and significantly reduce the historical inequalities of Brazilian Education. However, for the National Education System to exist, it is essential that a complementary law be approved, disciplining the role of the Federated entities and establishing the instances of negotiation, cooperation and agreement. The priority of the National Congress must be to qualify the debate on the subject and mature the proposals of Complementary Bills so that a progressive consensus is reached on this structuring theme.

To contribute to this process, Todos Pela Educação presented in this technical note, without intending to exhaust the theme: the history of discussion on the SNE; its constitutional foundations; the good practices of the collaboration regime and the existing problems due to the lack of a National Education System; the complementary bills currently being processed in the City Council and Senate; and what dimensions are necessary for the Constitution of the system. From this context, a series of questions are raised throughout the note to assist the debate.

The questions are presented in ten dimensions that aims to qualify the debate on how to configure the SNE and what mechanisms should be considered and thought for its effective functioning. These are questions that need to be answered and reflected together between the different political actors and representatives of civil society.



It is important to consider that these questions are the guide of the debate in the view of Todos Pela Educação, not emptying possible other notes that may arise. It is essential that in the coming months we continue to have a sequence of debates on this subject.

Thus, it is salutary, commendable and acclaimed by Todos Pela Educação that parliamentarians, in dialogue with the federal and subnational governments, give priority to these discussions in order to improve the bills currently being processed and present technically robust substitute, agreed among the various actors involved in the public debate. With a sense of urgency and technical rigor, Brazil can definitely implement the National Education System as a transformative public policy to improve the quality of Brazilian Basic Education.





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