

A IMPLEMENTAÇÃO DA LEI DE COTAS 13.409/2016 PARA AS PESSOAS COM DEFICIÊNCIA NA UNIVERSIDADE

LA IMPLEMENTACIÓN DE LA LEY DE CUOTAS 13.409/2016 PARA PERSONAS CON DISCAPACIDAD EN LA UNIVERSIDAD

IMPLEMENTATION OF THE QUOTA LAW 13,409/2016 FOR PEOPLE WITH DISABILITIES AT THE UNIVERSITY

Vanderlei Balbino da COSTA¹
Renata Magalhães NAVES²

RESUMO: O estudo resultou da investigação dos alunos com deficiência em 2019 que fizeram opção de matrícula pelas cotas via SISU. O problema de pesquisa foi: quais são os limites e desafios para implementar a Lei nº 13.409/2016 nas universidades públicas federais? Objetivos: discutir os limites que a lei de cotas vem enfrentando para garantir a inclusão dos alunos com deficiência; conhecer os desafios que o ensino superior terá pela frente para a promoção da inclusão; debater na universidade a lei de cotas para alunos com deficiência. A investigação foi qualitativa, ancorada nos pressupostos da análise do discurso. Resultados: há dúvidas dos estudantes com deficiência sobre quem são os beneficiários da Lei, uma vez que ela foi implantada em 2018. Considerações: necessidade de divulgar a lei junto aos gestores das universidades, estados, municípios, diretores de escolas e alunos com deficiência no ensino médio, considerando que a lei não contempla alunos que frequentaram escolas privadas.

PALAVRAS-CHAVE: Ensino superior. Lei de cotas. Alunos com deficiência.

RESUMEN: El estudio resultó de la investigación de los alumnos con discapacidad en 2019 que hicieron la opción de matrícula por las cuotas vía SISU. El problema de investigación fue: ¿cuáles son los límites y retos para implementar la Ley nº 13.409/2016 en las universidades públicas federales? Objetivos: discutir los límites que la ley de cuotas ha enfrentado para garantizar la inclusión de los alumnos con discapacidad; conocer los retos que la enseñanza superior tendrá que afrontar para la promoción de la inclusión; debatir en la universidad la ley de cuotas para alumnos con discapacidad. La investigación fue cualitativa, basada en los supuestos del análisis del discurso. Resultados: hay dudas de los estudiantes con discapacidad sobre quiénes son los beneficiarios de la Ley, una vez que se la implantó en 2018. Consideraciones: necesidad de divulgar la ley junto a los gestores de las universidades, estados, municipios, directores de escuelas y alumnos con discapacidad en la enseñanza media, considerando que la ley no contempla alumnos que frecuentaron escuelas privadas.

PALABRAS CLAVE: Enseñanza superior. Ley de cuotas. Alumnos con discapacidad.

¹ Federal University of Jataí (UFJ), Jataí - GO - Brazil. Professor in the College of Education. PhD in Special Education (UFSCar). ORCID: <https://orcid.org/0000-0002-1330-747X>. E-mail: vanderleibalbino@gmail.com

² University of Brasília (UnB), Brasília - DF - Brazil. PhD in Human Development Processes and Health from the Institute of Psychology (UnB). ORCID: <http://orcid.org/0000-0002-7423-1309>. E-mail: renatanavespsico@gmail.com

ABSTRACT: *The study resulted from the investigation of students with disabilities in 2019 who made the option of enrollment through quotas via SISU. The research problem was: what are the limits and challenges for implementing the Law n. 13.409/2016 in federal public universities? Objectives: to discuss the limits that the quota law has been facing to ensure the inclusion of students with disabilities; know the challenges facing higher education in promoting inclusion; debate at the university the quota law for students with disabilities. The investigation was qualitative, anchored in the assumptions of discourse analysis. Results: there are doubts of students with disabilities about who are the beneficiaries of the Law, since it was implemented in 2018. Considerations: need to disclose the law to the managers of universities, states, municipalities, school principals and students with disabilities in high school, considering that the law does not include students who attended private schools.*

KEYWORDS: *Higher education. Quota law. Students with disabilities.*

Introductory notes

The schooling process for people with disabilities in ordinary education is relatively recent. Just to exemplify, it is only from the 1960s that the Brazilian government decides to assume special education, previously maintained only by non-profit philanthropic institutions. According to Jannuzzi (2004), in the 60's of the 20th century, Brazil went from 200 to 800 special education institutions.

With regard to special education in the country, it is useful to point out that until the 1990s we lived the period of school integration, in which students with disabilities had to adapt to teaching, not being able to blame the system, the school and not even teachers for their failure.

In the fall of the twentieth century, more precisely in the 1990s, international movements bubbled up around the planet, whose main intention was to discuss the inclusion of excluded people in the educational scenario. These movements, such as the World Declaration on Education for All, Jomtien (UNESCO, 1990) and the International Conference of Salamanca, Spain (UNESCO, 1994), among others, started to discuss some mechanisms aiming to include all people, with and without disabilities, in schools at all levels.

When briefly skimming our eyes on public educational policies in the country, starting in the 1990s, we have the Law of Guidelines and Bases of National Education (LDBEN), Law no. 9394/96 (BRASIL, 1996), which instituted a chapter specific on special education, guaranteeing students with disabilities, global developmental disorders, high skills/giftedness to be included, preferably, in ordinary schools.

When the 21st century was revealed in Brazil, Educational Guidelines, Federal Decrees, Public Legislation, among others, made special education, in an inclusive perspective, start to

take new directions towards the school inclusion of all people.

Perhaps one of the greatest difficulties for the schooling process that people with disabilities face to feel included is in the initial formation course at universities. This can be evidenced in Costa's writings (2014), emphasizing that in the context of initial formation in undergraduate courses, today, one of the biggest challenges in universities is to form teachers to work in schools when the special education public is present, enrolled, desiring knowledge, in short, seeking their inclusion.

It is obvious that in many undergraduate courses there are still no special education disciplines in their curricula, although this recommendation has already existed since the publication of Ministerial Ordinance no. 1793 (MEC, 1994). Perhaps this legal precept is not yet effectively guaranteed because in Brazil when there is no such requirement, university rectors, state/municipal secretaries, school principals, among others, do not feel forced to comply with the legislation, since it does not have force of law.

The present study, carried out in 2019 with students with disabilities at the time of enrollment, has among many goals to demonstrate that there are many dissatisfactions of these with Law no. 13,409/2016 (BRASIL, 2016), since it does not contemplate all the special education public.

There are many questions about Law no. 13,409/2016 (quota law) for people with disabilities in higher education. In this sense, the research problem that covered this investigation was: what are the limits, challenges and possibilities to implement the Quota Law no. 13,409/2016 in federal public universities in the country?

The reflective study now being debated in higher education institutions has the intention of achieving the following objectives: to discuss, in the light of educational policies, what are the main limits that the quota law has been facing to guarantee the inclusion of students with disabilities in the university; to know the challenges that higher education will face in order to promote the inclusion and permanence of students with disabilities; to discuss with the different university instances the quota law for students with disabilities, seeking to guarantee the full execution of this social right.

Our choice in this reflection was for qualitative research. In this way, we rely on Lüdke and André (1986, p. 11), emphasizing that “qualitative research has the natural environment as its direct source of data and the researcher as its main instrument”. As it is a qualitative study, based on the speeches of quota students, the method used was the analysis of the French line discourse, based on authors such as Orlandi (2005); Foucault (2006); Pêcheux (2006), among others who analyze discourse as an effect of meaning.

When we joined the Accessibility Centers, especially by analyzing educational legislation, we supported official documents that legitimized the inclusion and permanence of students with disabilities in higher education. In view of the above, we used documentary research, here understood by Piana (2009, p. 122) when pointing out that “documentary research has some advantages for being a 'rich and stable source of data': it does not imply high costs, it does not require contact with the research subjects and allows an in-depth reading of the sources”³.

Based on a reflection with students with disabilities who wanted to enter the university through the quota system, we chose to identify what are the limits that are present in the quotas, through the speeches expressed in the act of their enrollment in higher education.

It is of fundamental importance to emphasize that the study participants were students with disabilities who competed for the Sisu 2019, expressing interest in the vacancies contemplated by Law no. 13,409/2016 (BRASIL, 2016), which came into force in 2018.

With regard to discourse analysis, we support Orlandi (2005), when stating that discourse seeks in the speeches beyond what is said, also what is not said, or what is said between the lines.

When using the analysis of the discourse present in the speeches of students with disabilities in the act of enrollment, or even during the selection process, we resort to Pêcheux (2006) and Foucault (2006), when they observe that we must understand the discourse as social production. Social production understood here in the speeches of the University's academics, when they express “their dissatisfactions about Law no. 13,409/2016, which does not include the entire public of special education”.

Theoretical reflections

The construction of a free society can only occur through some social, cultural and human values. In this sense, in our view, the school/space where knowledge is disseminated, needs to accept differences. In this sense, Jitsumori and Backes (2010, p. 156) emphasize that “The school, understood as a space/time in which different subjects circulate, can both legitimize identities, as well as disallow, discriminate and stereotype identities”⁴. In view of the above, we share the thesis that this time-space constituted within the school increasingly needs

³ “a pesquisa documental apresenta algumas vantagens por ser ‘fonte rica e estável de dados’: não implica altos custos, não exige contato com os sujeitos da pesquisa e possibilita uma leitura aprofundada das fontes”

⁴ “A escola, entendida como um espaço/tempo em que circulam diferentes sujeitos, pode tanto legitimar identidades, quanto desautorizar, discriminar e estereotipar identidades”

to contemplate differences, valuing them as legitimate.

Access to Brazilian Federal Higher Education Institutions (HEI) by People with Disabilities (PwD) is a recent achievement in public education policies in the country, leveraged after years of significant difficulties in facing this public in search of schooling, not only in higher education but in basic education as well.

Currently, PwDs have access to undergraduate courses guaranteed by Law no. 13,409, of December 28, 2016, which provides “on the reservation of vacancies for people with disabilities in technical courses at high school and graduate level of the federal educational institutions”⁵ (BRASIL, 2016). This Law is also supported by Decrees no. 3,298, of December 20, 1999 (BRASIL, 1999); and Decree no. 5,296, of December 2, 2004 (BRASIL, 2004).

Like the PwD, brown, black, indigenous people, as well as those from public schools, have their reservation of places in the Federal Higher Education Institutions (HEI) guaranteed through the Quota Law. Regarding the number of places reserved for people at HEI, coming from public schools, this is how Article 1 of Law no. 12,711 / 2012 provides:

Art. 1 The federal institutions of higher education linked to the Ministry of Education will reserve, in each selective competition for admission to undergraduate courses, by course and shift, at least 50% (fifty percent) of their vacancies for students who have fully studied high school in public schools (BRASIL, 2012).⁶

Regarding the vacancies reserved in the HEIs to the PwD, as well as blacks, browns and indigenous people, Law no. 13,409 provides in its article 3:

Art. 3 In each federal higher education institution, the vacancies referred to in art. 1 of this Law will be filled, by course and shift, by self-declared blacks, browns and indigenous people and people with disabilities, under the terms of the legislation, in proportion to the total number of vacancies at least equal to the respective proportion of blacks, browns, indigenous people and people with disabilities in the population of the Federation unit where the institution is installed, according to the last census of the Brazilian Institute of Geography and Statistics - IBGE (BRASIL, 2016).⁷

⁵ “sobre a reserva de vagas para pessoas com deficiência nos cursos técnico de nível médio e superior das instituições federais de ensino”

⁶ Art. 1º As instituições federais de educação superior vinculadas ao Ministério da Educação reservarão, em cada concurso seletivo para ingresso nos cursos de graduação, por curso e turno, no mínimo 50% (cinquenta por cento) de suas vagas para estudantes que tenham cursado integralmente o ensino médio em escolas públicas (BRASIL, 2012).

⁷ Art. 3º Em cada instituição federal de ensino superior, as vagas de que trata o art. 1º desta Lei serão preenchidas, por curso e turno, por autodeclarados pretos, pardos e indígenas e por pessoas com deficiência, nos termos da legislação, em proporção ao total de vagas no mínimo igual à proporção respectiva de pretos, pardos, indígenas e pessoas com deficiência na população da unidade da Federação onde está instalada a instituição, segundo o último censo da Fundação Instituto Brasileiro de Geografia e Estatística - IBGE (BRASIL, 2016).

When referring to People with Disabilities (PwD), Decree no. 3,298/1999 thus provides in its Article 3, item I, that disability is “any loss or abnormality of a psychological, physiological or anatomical structure or function that generates disability for the performance of activity, within the standard considered normal for humans”⁸ (BRASIL, 1999). Regarding the accessibility of PwD, as well as their conditions of equality and guaranteed citizenship rights, Decree no. 5,296/2004 and the Brazilian Inclusion Law (LBI), in its article 1, “establishes general rules and basic criteria to promote accessibility for people with disabilities or reduced mobility”⁹ (BRASIL, 2004); it aims to “ensure and promote, on equal terms, the exercise of fundamental rights and freedoms by persons with disabilities, aiming at their social inclusion and citizenship”¹⁰ (BRASIL, 2015).

And in order for people with vacancy rights to be selected in the HEI selection process, the Ministry of Education (MEC), in 2010, instituted the Sisu (Portuguese initials for Unified Selection System), which is computerized and managed through the Department of Higher Education from the Ministry of Education (MEC, 2012).

In this perspective, Brazilian society is called upon to face several challenges, among them, that of being able to promote the school inclusion of blacks, quilombolas, indigenous people, and people with disabilities at various levels of ordinary education.

The university - space and time for legitimizing differences - cannot hide, reduce and reject the construction of identities. We speak of identities because they are not unique, done and finished. Based on this assumption, Bhabha (1998, p. 85), emphasizes that “[...] Identity is never an *a priori*, nor a finished product; it is just and always the problematic process of accessing an image of the whole”¹¹. The defense of this thesis is also observed by Hall (1999, p. 12-13), emphasizing that:

In the contemporary world, the subject does not have a fixed, essential or permanent identity. Identity becomes a Mobile celebration: formed and transformed continuously in relation to the ways in which we are represented or challenged in the cultural systems that surround us.¹²

⁸ “toda perda ou anormalidade de uma estrutura ou função psicológica, fisiológica ou anatômica que gere incapacidade para o desempenho de atividade, dentro do padrão considerado normal para o ser humano”

⁹ “estabelece normas gerais e critérios básicos para a promoção da acessibilidade das pessoas portadoras de deficiência ou com mobilidade reduzida”

¹⁰ “assegurar e a promover, em condições de igualdade, o exercício dos direitos e das liberdades fundamentais por pessoa com deficiência, visando à sua inclusão social e cidadania”

¹¹ “[...] A identidade nunca é um *a priori*, nem um produto acabado; ela é apenas e sempre o processo problemático de acesso a uma imagem da totalidade”

¹² Na contemporaneidade, o sujeito não possui uma identidade fixa, essencial ou permanente. A identidade torna-se uma celebração Móvel: formada e transformada continuamente em relação às formas pelas quais somos representados ou interpelados nos sistemas culturais que nos rodeiam.

These notes provide reflections that there is no single identity. It, the identity, is built on the relationships and experiences that we collectively acquire.

When referring to the inclusion and permanence of students with disabilities in the university, we are facing some educational problems, such as: Do students with disabilities, considering their socioeconomic trajectory, have conditions to enter higher education? Does the preparation in basic education, which they received in the public school, enable them to include and remain in the university? Did the teachers who educated them in elementary and high school have special education subjects in their formative courses to prepare them to include them in the ordinary school? This triple question leads us to make another reflection that, without the quotas, the access of students with disabilities in higher education will be more difficult, since there is competition with the others, especially when the disputes are with students of private education.

In the Brazilian educational context, marked by exclusions between those who have and those who don't, there are difficulties to (re)recognize the differences. These difficulties in turn also fall when the intention is to build our identities in the different educational spaces. This can be seen in Silva's writings (2000, p. 81), when she stated that "Affirming identity means demarcating borders, it means making distinctions between what is inside and what is outside. Identity is always linked to a strong separation between us and them"¹³. This separation, as Silva says, supposes a strong power relationship between those inside and those who are still outside.

In a world marked by social exclusions, we think it is not possible to build our identities without access to scientific knowledge and elaborated knowledge. Obviously, experiential knowledge is important, but it needs to be shared (TARDIF, 2002). In universities, we defend quotas because there are people who have had their rights usurped for centuries, considering that there are two problems in the educational environment: social and pedagogical. In this sense, Silva (2000, p. 96), states that:

It is a social problem because, in a heterogeneous world, the encounter with the other, with the strange, with the different, is inevitable. It is a pedagogical and curricular problem not only because children and young people, in a society crossed by difference, necessarily interact with each other in the school space, but also because the question of the other and of difference cannot fail to be a matter of pedagogical and curricular concern.¹⁴

¹³ "Afirmar a identidade significa demarcar fronteiras, significa fazer distinções entre o que fica dentro e o que fica fora. A identidade está sempre ligada a uma forte separação entre nós e eles"

¹⁴ É um problema social porque, em um mundo heterogêneo, o encontro com o outro, com o estranho, com o diferente, é inevitável. É um problema pedagógico e curricular não apenas porque as crianças e os jovens, em uma sociedade atravessada pela diferença, forçosamente interagem com o outro no próprio espaço da escola, mas

This premise makes us think that the school is a place surrounded by conflicts, however, conducive to consolidation and respect for differences.

In relation to the adoption of quotas for students with disabilities in higher education, the process of inclusion and permanence comes up against, today, a crucial issue, to which the prejudice of non-quota students refers. But, why in the middle of the information age, in the globalized world, without borders, connected by networks, does this still happen in the educational system? In our view, this is because Brazilian society has not yet learned to live harmoniously with diversity and, therefore, recognize differences in plurality.

When referring to culture within the different educational spaces, formal and non-formal, we think it is relevant to mention the issue of quotas. This issue in turn still generates conflicts between those who are in favor or against its execution in universities. When it comes to the acquisition of culture, we think it is relevant to emphasize that it, the culture we are talking about, is not, cannot and can never be a ready, rigid, closed and predictable system. It, culture, cannot be a dimension transmitted and/or transferred in a hereditary way. We say this by supporting us in Hall (2003, p. 136), by pointing out that “Culture is a whole set not only of practices, nor just the descriptive sum of popular customs and cultures of societies, [...] It is permeated by all social practices and constitutes the sum of their interrelationships”¹⁵. This observation makes us think that the university, locus where knowledge is disseminated, constitutes a space in which blacks, indigenous people, quilombolas and people with disabilities seek their emancipation.

In the emblematic question of quotas in universities, we are still “obliged” to live with conflicting discourses, since there are those who are in favor and those who are against, under the false argument that all are equal. In this conflicting scenario of relations, we think it is necessary to emphasize that the discourse of equality is at least distorted, considering that our society is plural, heterogeneous and, therefore, excluded from social rights. In view of this argument, we are led to affirm that there is no possibility for the subject to conquer their identities if they, these subjects, are not given the opportunity to access and stay in different educational spaces. In this dubious position, Hall (1999, p. 13), points out that:

The subject assumes different identities at different times, identities that are not unified around a coherent self. Within us are contradictory identities,

também porque a questão do outro e da diferença não pode deixar de ser matéria de preocupação pedagógica e curricular.

¹⁵ “A cultura é todo um conjunto não só de práticas, nem apenas a soma descritiva dos costumes e culturas populares das sociedades, [...] Está perpassada por todas as práticas sociais e constitui a soma do inter-relacionamento das mesmas”

pushing in different directions, such that our identifications are continually displaced. If we feel that we have a unified identity from birth to death, it is only because we build one as from the stories about ourselves or a comforting narrative of the self.¹⁶

The constitution of quotas present in higher education for two decades still generates conflicts. This discourse, on the other hand, is not harmonious, because in it is a power relationship. Power here understood by Silva (2000, p. 81), emphasizing that:

The affirmation of identity and the statement of difference reflect the desire of different social groups, asymmetrically situated, to guarantee privileged access to social goods. Identity and difference are, therefore, in close connection with power relations. The power to define identity and make a difference cannot be separated from the broader power relations. Identity and difference are never innocent.¹⁷

We mean by that in a society composed of (un)equals, conflicting relationships only bring social losses to the (dis)favoured.

It is relevant to emphasize that we are completing two decades of the 21st century. In these years, we have passed many public laws that support the entry of students with disabilities into higher education.

In this new century, perhaps the greatest challenge is not only to guarantee the entrance of students with disabilities to the university. In our view, the biggest challenge is to make public bodies able to legitimize this permanence with quality in the higher levels, considering that this access is a matter of citizenship.

To deny the right to quotas in public higher education and to discuss equality between blacks, indigenous people, quilombolas and people with disabilities is to deny the existence of stereotypes and stigmas attributed to these people for centuries. In view of the above, Magalhães and Cardoso (2010, p. 60), point out that “thinking about the identity of people with disabilities is an arduous task and marked by conflict. In fact, the construction of identities always involves conflict”¹⁸. Conflict because it is still impregnated in the imagination of some that to institute rights, guarantee social reparations for those stigmatized, respect differences, mean privileges.

¹⁶ O sujeito assume identidades diferentes em diferentes momentos, identidades que não são unificados ao redor de um eu coerente. Dentro de nós há identidades contraditórias, empurrando em diferentes direções, de tal modo que nossas identificações estão sendo continuamente deslocadas. Se sentirmos que temos uma identidade unificada desde o nascimento até a morte é apenas porque construímos uma como das estórias sobre nós mesmos ou uma confortadora narrativa do eu.

¹⁷ A afirmação da identidade e a enunciação da diferença traduzem o desejo de diferentes grupos sociais, assimetricamente situados, de garantir o acesso privilegiado aos bens sociais. A identidade e a diferença estão, pois, em estreita conexão com relações de poder. O poder de definir a identidade e de marcar diferença não pode ser separado das relações mais amplas de poder. A identidade e a diferença não são nunca inocentes.

¹⁸ pensar a identidade da pessoa com deficiência é uma tarefa árdua e marcada pelo conflito. Aliás, a construção das identidades sempre envolve conflito”

One of the most significant milestones of special education in Brazil was the approval of the Brazilian Inclusion Law (LBI, Portuguese initials), Law no. 13,146/2015 (BRASIL, 2015), which in its art. 28 emphasizes that it is incumbent on the public authorities to ensure, create, develop, implement, encourage, monitor and evaluate the needs to adopt inclusive pedagogical practices for initial and continuing teacher formation, as well as offering formation for specialized educational assistance, aiming to maintain quality students with disabilities in ordinary schools at all levels.

Considering the references mentioned here, such as Declarations, Conferences, Resolutions, Guidelines, Decrees and bibliographies that discuss this exciting theme, now in evidence in the Brazilian educational system, we share the thesis that quotas for students with disabilities in universities are configured as an urgent necessity, since disputes in academic circles are unfair, involving the public of special education with disabilities, students considered normal and students from private education, who are, as a rule, better assisted in schools, which offer greater support.

Throughout these reflections and experiences in the Accessibility Centers, the defense for quotas in universities is not just because students with disabilities have physical, intellectual, visual, hearing impairment, among others. Our position in favor of quotas refers to initial (de)formation in undergraduate degrees. In this sense, Heredero (2010) emphasizes that one of the limits that contributes a lot to hinder the access of students with disabilities in universities are the pedagogical barriers present, especially when the curriculum is not adapted to the different special educational needs and in the homogeneous planning that does not respect differences in higher education.

When referring to affirmative action policies at the university, especially when we want to promote the inclusion and permanence of students with disabilities, we are faced with some limits, such as: the quota law does not include various disorders; it also does not include deaf people with an index below 40 decibels; people with monocular vision; people who partially or fully attended high school in private institutions. Thus, we think that some inclusive political measures need to be taken in view of the need to create additions and reserves of vacancies, additional quotas, granting bonuses, since the intention is to include and maintain with quality the presence of these new social subjects in university courses.

It is obvious that in Brazil, the process of schooling in higher education is very uneven. When we refer to the inclusion of students with disabilities, this distance becomes wider, considering that our initial formation is precarious. In this sense, we think it is necessary to discuss concepts of social justice and respect for differences in diversity. Faced with this

assertion, Feres Júnior (2008), cited by Oliveira (2011, p. 38), points out that “ensuring the right to difference at the university is teaching to include and, if the institution does not take on this task, society it will continue to perpetuate exclusion in its most subtle and wildest forms”¹⁹.

When discussing the legislation that supports the admission of people with disabilities to the university through quotas, we support Decrees no. 3,298/1999; Decree no. 5,296/2004; Decree no. 6,949/2009, which establishes who the disabled are, naming them as physical, visual, auditory, intellectual and autism spectrum disorder. According to this set of laws, students who prove these limitations are guaranteed to enter universities using quotas.

In his speeches, one of the limits expressed by students with disabilities in universities, when using the quota law no. 13,409/2016, is the fact that it is restricted to only some disabilities. "This was evidenced in the testimonies of students with a monocular vision, who are not supported by the respective law". In our view, the publication of this law created a dubious understanding, since in public tenders monocular deficiency is considered a deficiency, however, in the selection processes of universities there is no such legal support.

In the case of people with hearing loss, Law no. 13,409/2016, supporting Decrees no. 3,298/1999 and no. 5,296/2004, states that only deaf students with bilateral, partial or total loss of 41 decibels or more measured by audiogram in the frequencies of 500Hz, 1,000Hz, 2,000Hz and 3,000Hz can enter through quotas. The students, although deaf, but who do not fit this standard established by the law, claim that it is very limited, not supporting all deaf people. When referring to Law 13,409/2016, students showed many dissatisfactions, since although they are characterized as public students of special education, they are not considered to have the right to this law. (BRASIL, 2016)

"In their speeches at the time of enrollment, students with disabilities from private institutions criticized the respective law, claiming that it discriminates against them for not having attended high school in public schools"²⁰ (BRASIL, 2016). In our analysis, it was experienced that, for students, this is one of the most serious limits that the legislation needs to overcome, since it does not respect the free right to come and go.

In the context of affirmative action at universities, especially when referring to quotas, vacancies reservations, additional quotas, granting bonuses, etc., the big challenge is to convince people with some disorders who are not entitled to enter through quotas, Law no.

¹⁹ “assegurar o direito a diferença na universidade é ensinar a incluir e, se a instituição não tomar para si essa tarefa, a sociedade continuará perpetuando a exclusão em suas formas mais sutis e mais selvagens

²⁰ “Em seus discursos no ato das matrículas, os alunos com deficiência provenientes das instituições privadas criticaram a respectiva lei, alegando que a mesma os discrimina por não terem cursado ensino médio na escola pública”

13,409/2016, indicating that the specific disorders of the development of school skills are not supported (ICD 10 - F81): Specific reading disorder (F810); Specific spelling disorder (F811); Specific disorder of skill in arithmetic (F812); Mixed disorder of school skills (F813); Other disorders of the development of school skills (F818); Unspecified disorder in the development of school skills (F819).

When referring to Universities, the locus where we operate, we recorded a high incidence of students with dyslexia, alexia, agnosia and apraxia, who are not entitled to quotas. Perhaps, one of the great challenges that we will face in the coming years is the dissatisfaction of these students with these limitations, since we do not know if it is because of (un)information, or not yet publicizing of the law by educational institutions, that people do not know who are the real beneficiaries of the law.

We have no doubts in affirming that affirmative action programs have contributed to facilitate access and permanence for students with disabilities in higher education, as well as increasing the number of students with disabilities in universities through quotas, considering that the institutional mechanisms have struggled for these possibilities to become effective. It is of fundamental importance to point out that with the publication of the Quota Law no. 13,409/2016, effective from 2018, the number of enrollments of students with disabilities increased considerably, since with the legislation, students with disabilities have this right legitimated.

As members of the Accessibility and Inclusion Centers at universities, our challenge is to disseminate, spread and publicize to students with disabilities that this right exists in educational legislation.

Another major challenge that we believe we face in this task is to make it clear to students that only physical, hearing, visual, intellectual, multiple and autism disabilities are considered by Law no. 13,409/2016 as a disability. The Quota Law 13,409/2016 disregards the National Policy on Special Education from the perspective of Inclusive Education (BRASIL, 2008, p. 15), when it does not support the special education public, composed of specific functional disorders: “dyslexia, dysortographia, dysgraphia, dyscalculia, attention disorder and hyperactivity, among others”.

The defense of quotas in universities does not occur only by compensation/reparation of rights. We defend quotas in universities because blacks, indigenous people, quilombolas and people with disabilities for centuries have been and are being stigmatized. Stigma here understood in the writings of Goffman (1988, p. 13), by stressing that “stigma is an attribute considered profoundly disparaging by the social environment, which leads the individual to

intense discredit. The stigmatized individual is seen as a weak defective or at a disadvantage compared to others, [...]”²¹. That said, we think it is difficult to build our identities in a society that mistakenly label us as equals.

In view of this premise, Goffman (1988) points out three essential ideas that legitimize the construction of identities and not identity: a) the uniqueness of the individual as a positive or supportive brand; b) Many facts in a subject's life are identical to those of other subjects, but at the same time, each subject has a set of unique facts related to his life and, therefore, serve to differentiate him positively from the others; c) There is something in the essence of the individual that differentiates him from others.

These statements provide reflections about the university as a space in which we have the possibility to build our identities, as soon as we respect differences.

Final considerations

There are many reflections that can be made in this research. However, we think that students with disabilities still live with exclusionary processes, considering that until 2012 this number did not reach 1% of the enrollments of these new social subjects in universities. This low proportion in higher education calls into question a dubious inquiry: the problem lies in the quality of basic education (elementary and high school), or in the initial formation of teachers in higher education, which has not been able to include these students with disabilities in different levels of education? The question that now does not want to remain silent is: the Brazilian Institute of Geography and Statistics (IBGE) - (BRASIL, 2010) reveals that 24.6% of the population declares itself to be disabled. So why are there so few enrolled in higher education?

It is obvious that we have already moved towards the school inclusion of students with disabilities. However, in relation to higher education, there is much to do, as the data reveal the low enrollment rate of these in universities. In view of the above, Freitas and Baqueiro (2014, p. 10) emphasize that “the path towards an inclusive education in higher education is a challenge yet to be overcome”²². The authors also highlight the importance of respecting differences in human diversity. In this sense, they point out that

²¹ “estigma é um atributo considerado profundamente depreciativo pelo meio social, que conduz o indivíduo ao descrédito de forma intensa. O indivíduo estigmatizado é visto como defeituoso fraco ou em situação desvantagem em relação aos demais, [...]”

²² “o caminho em direção a uma educação inclusiva no ensino superior é um desafio ainda a ser superado”

Serving people equally will favor the permanence of inequalities. Considering the differences is imposed as a necessary measure for the implementation of inclusion policies, which implies changes in paradigms and, consequently, a reorganization of educational practices (FREITAS; BAQUEIRO, 2014, p. 10).²³

We know that there is a lot to do so that students with disabilities can access higher education in greater numbers. However, if we consider the Quota Law no. 13,409/2016, which came into force in 2018, it is possible to certify these advances in relation to inclusion policies in higher education.

Data from the National Institute of Studies and Research Anísio Teixeira (BRASIL, 2013) reveal that, in 2012, 7,305,977 students enrolled in higher education. Of this total of students, 29,034 declared themselves with some type of disability (blind, visually impaired, deaf, hearing impaired, deafblind, physically disabled, multiple disabled, intellectual, autistic, Asperger's Syndrome, among other disabilities).

We may not yet know how to proliferate in high school that the Quota Law no. 13,409/2016 only contemplates students who attended high school in public institutions. The recurring problem, in our view, is that a good number of students with disabilities choose to attend high school in private schools. This may be one of the biggest challenges that the coordinators of the Accessibility Centers will encounter in the coming years, considering that the referred legislation does not support any student (with and without disabilities) who attended high school in private schools.

When considering education as a right of citizenship, we think that respect for human differences in diversity is configured as a basic condition in the promotion of social justice. Especially because access, inclusion and permanence at the university needs to be guaranteed for everyone, regardless of whether these are students with disabilities or not.

REFERENCES

BHABHA, Homi. **O local da cultura**. Belo Horizonte: Ed. UFMG, 1998.

BRASIL. Decreto n. 3.298, de 20 de dezembro de 1999. Dispõe sobre a Política Nacional para a Integração da Pessoa Portadora de Deficiência, consolida as normas de proteção, e dá outras providências. **Casa Civil**, Brasília, 1999.

BRASIL. Decreto n. 5.296, de 2 de dezembro de 2004. Regulamenta as Leis n. 10.048, de 8

²³ Atender igualmente as pessoas favorecerá a permanência das desigualdades. Considerar as diferenças impõe como medida necessária para a execução de políticas de inclusão, o que implica em mudanças de paradigmas e consequentemente uma reorganização das práticas educacionais (FREITAS; BAQUEIRO, 2014, p. 10).

de novembro de 2000, que dá prioridade de atendimento às pessoas que especifica, e 10.098, de 19 de dezembro de 2000, que estabelece normas gerais e critérios básicos para a promoção da acessibilidade das pessoas portadoras de deficiência ou com mobilidade reduzida, e dá outras providências. **Casa Civil**, Brasília, 2004.

BRASIL. Decreto n. 5.626, de 22 de dezembro de 2005. Regulamenta a Lei n. 10.436, de 24 de abril de 2002, que dispõe sobre a Língua Brasileira de Sinais - Libras, e o art. 18 da Lei nº 10.098, de 19 de dezembro de 2000. **Casa Civil**, Brasília, 2005.

BRASIL. Decreto n. 6.949, de 25 de agosto de 2009. Promulga a Convenção Internacional sobre os Direitos das Pessoas com Deficiência e seu Protocolo Facultativo, assinados em Nova York, em 30 de março de 2007. **Casa Civil**, Brasília, 2009.

BRASIL. Lei n. 13.146, de 6 de julho de 2015. Institui a Lei Brasileira de Inclusão da Pessoa com Deficiência (Estatuto da Pessoa com Deficiência). **Casa Civil**, Brasília, 2015.

BRASIL. Lei n. 13.409, de 28 de dezembro de 2016. Altera a Lei n. 12.711, de 29 de agosto de 2012, para dispor sobre a reserva de vagas para pessoas com deficiência nos cursos técnico de nível médio e superior das instituições federais de ensino. **Casa Civil**, Brasília, 2016.

BRASIL. Lei n. 9.394, de 20 de dezembro de 1996. Estabelece as diretrizes e bases da educação nacional. **Casa Civil**, Brasília, 1996.

BRASIL. Ministério da Educação/ Instituto Nacional de Estudos e Pesquisas Educacionais Anísio Teixeira Censo da Educação Superior. **Resumo Técnico Censo da Educação Superior**. Brasília, INEP, 2013.

BRASIL. **Ministério do Planejamento**: Instituto Brasileiro de Geografia e Estatística (IBGE), 2010.

BRASIL. **Política Nacional de Educação Especial na Perspectiva da Educação Inclusiva**. Available: http://portal.mec.gov.br/index.php?option=com_docman&view=download&alias=16690-politica-nacional-de-educacao-especial-na-perspectiva-da-educacao-inclusiva-05122014&Itemid=30192. Access: 20 fev. 2020.

COSTA, Vanderlei Balbino da; DENARI, Fátima Elisabeth. Concepção docente sobre adequação curricular na educação inclusiva. **Revista Ibero-Americana de Estudo em Educação**, v. 9, n. 1, p. 26-36, 2014. Available: <https://periodicos.fclar.unesp.br/iberoamericana/article/view/6854>. Access: 12 dez. 2019.

DAMÁZIO, Mirlene Ferreira Macedo. Metodologia do serviço do atendimento educacional especializado em uma perspectiva inclusiva na escola regular. **Revista on line de Política e Gestão Educacional**, v. 22, n. esp. 2, p. 840-855, dez. 2018. ISSN 1519-9029. Available: <https://periodicos.fclar.unesp.br/rpge/article/view/11916>. Access: 27 mar. 2020.

FOUCAULT, Michel. **A ordem do discurso**. 13. ed. Tradução: Laura Fraga de Almeida Sampaio. São Paulo: Loyola, 2006.

FREITAS, Meirielen Aparecida Gomes; BAQUEIRO, Dícíola Figueiredo Andrade. Políticas

públicas e as pessoas com deficiência no ensino superior no contexto brasileiro. In: **VIII Seminário Regional de Política e Administração da Educação do Nordeste**, 6 a 8 de dezembro de 2014, Salvador, Brasil: Anais Universidade Federal da Bahia. Faculdade de Educação. Programa de Pós-graduação em Educação. – Salvador, BA, 2014. Disponível em: <http://www.equidade.faced.ufba.br/politicas-publicas-e-pessoas-com-deficiencia-no-ensino-superior-no-contexto-brasileiro>. Available: 20 jul. 2018.

GIROTO, Claudia Regina Mosca; POKER, Rosimar Bortolini; VITTA, Fabiana Cristina Frigieri. 10 anos da Política Nacional de Educação Especial na Perspectiva da Educação Inclusiva em debate: trajetória, limites e desafios. **Revista on line de Política e Gestão Educacional**, v. 22, n. esp. 2, p. 711-715, dez. 2018. ISSN 1519-9029. Available: <https://periodicos.fclar.unesp.br/rpge/article/view/11968>. Access: 27 mar. 2020.

GOFFMAN, Erving. **Estigma**: notas sobre a manipulação da identidade deteriorada. 4. ed. Rio de Janeiro: Guanabara, 1988.

HALL, Stuart. **Da diáspora**: identidades e mediações culturais. Belo Horizonte: UFMG, 2003.

HALL, Stuart. **Identidade cultural na pós-modernidade**. 3. ed. Rio de Janeiro: DP&A, 1999.

HEREDERO, Eladio Sebastian. A escola inclusiva estratégias para fazer frente a ela: as adaptações curriculares. *Acta Scientiarum: Education*, v. 32 n. 2, p. 193-208, jul./dez. 2010. Available: <http://periodicos.uem.br/ojs/index.php/ActaSciEduc/article/view/9772>. Access: 07 nov. 2019.

JANNUZZI, Gilberta de Martino. **A Educação do deficiente no Brasil**: dos primórdios ao início do século XXI. Campinas, SP: Autores Associados, 2004.

JITSUMORI, Carlos Igor de O; BACKES, José Licínio. A escola, um espaço/tempo de diferentes identidades: identidades legitimadas, contestadas, marcadas, subvertidas. **Quaestio: Revista de Estudos de Educação**, v. 12, n. 1, p. 155-166, nov. 2010. Available: <http://189.108.239.212/ojs/index.php/quaestio/article/view/197>. Access: 28 jan. 2020.

LÜDKE, Hermengarda Alves Menga; ANDRÉ, Marli Eliza Dalmazo Afonso de. **Pesquisa em Educação**: abordagens qualitativas. São Paulo: EPU, 1986.

MAGALHÃES, Rita de Cássia Barbosa Paiva; CARDOSO, Ana Paula Lima Barbosa. A pessoa com deficiência e a crise das identidades na contemporaneidade. **Cadernos de Pesquisa**, v. 40, n. 139, p.45-61, jan./abr. 2010. Available: http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0100-15742010000100003&lng=en&nrm=iso. Access: 31 jan. 2020.

MANTOAN, Maria Teresa Eglér; BAPTISTA, Maria Isabel Sampaio Dias. Inovar para fazer acontecer: como estamos fortalecendo redes de apoio à educação inclusiva. **Revista on line de Política e Gestão Educacional**, v. 22, n. esp. 2, p. 763-777, dez. 2018. ISSN 1519-9029. Available: <https://periodicos.fclar.unesp.br/rpge/article/view/11911>. Access: 27 mar. 2020.

MEC. **Portaria n. 1793**, de dezembro de 1994. O Ministro de Estado da Educação e do

Desporto, no uso de suas atribuições, tendo em vista o disposto na Medida Provisória n. 765 de 16 de dezembro de 1994 e considerando: - a necessidade de complementar os currículos de formação de docentes e outros profissionais que interagem com portadores de necessidades especiais; - a manifestação favorável da Comissão Especial instituída pelo Decreto de 08 de dezembro de 1994. MEC, 1994. Available: <http://portal.mec.gov.br/arquivos/pdf/portaria1793.pdf>. Access: 25 jul. 2018.

MEC. **Portaria normativa n. 21, de 5 de novembro de 2012.** Dispõe sobre o Sistema de Seleção Unificada - Sisu. MEC, 2012. Available: <http://www.sisu.furg.br/images/portaria21mec.pdf>. Access: 20 jul. 2018.

OLIVEIRA, Antonia Soares Silveira e. **Alunos com deficiência no ensino superior: subsídios para a política de inclusão da UNIMONTES.** Orientadora: Maria Cristina Piumbato Innocentini Hayashi. 2011. 182 f. Tese (Doutorado em Educação Especial) - Universidade Federal de São Carlos (UFSCar), São Carlos, SP, 2011. Available: <https://repositorio.ufscar.br/handle/ufscar/2876>. Access: 27 mar. 2020.

ONOHARA, Ariane Mieko Himeno; SANTOS CRUZ, José Anderson; MARIANO, Maria Luiza. Educação inclusiva: o trabalho pedagógico do professor para com o aluno autista no ensino fundamental I. DOXA: **Revista Brasileira de Psicologia e Educação**, v. 20, n. 2, p. 289-304, jul./dez. 2018. ISSN 2594-8385. Available: <https://periodicos.fclar.unesp.br/doxa/article/view/12020>. Access: 27 mar. 2020.

ORLANDI, Eni Pulcinelli. **Análise de discurso: princípios e procedimentos.** 5. ed. Campinas, SP: Pontes, 2005.

PÊCHEUX, Michel. **O discurso: estrutura ou acontecimento.** 4. ed. Tradução: Eni P. Orlandi. Campinas, SP: Pontes, 2006.

PIANA, Maria Cristina. A construção da pesquisa documental: avanços e desafios na atuação do serviço social no campo educacional. In: PIANA, Maria Cristina. **A construção do perfil do assistente social no cenário educacional.** São Paulo: Cultura Acadêmica, 2009. p.119-166.

SILVA. Tomaz Tadeu da. **Identidade e diferença: a perspectiva dos estudos culturais/** Tomaz Tadeu da Silva (org.) Stuart Hall, Kathryn Woodward. Petrópolis, RJ: Vozes, 2000.

TARDIF, Maurice. **Saberes docentes e formação profissional.** 4. ed. Rio de Janeiro: Vozes, 2002.

UNESCO. **Declaração de Salamanca de princípios, política e prática para as necessidades educativas especiais.** Coordenadoria Nacional para a Integração da Pessoa Portadora de Deficiência (CORDE). Brasília, 1994. Available: <http://portal.mec.gov.br/seesp/arquivos/pdf/salamanca.pdf>. Access: 20 jul. 2018.

UNESCO. **Declaração mundial sobre educação para todos.** Plano de ação para satisfazer as necessidades básicas de aprendizagem. Jomtien, Tailândia, 1990. Available: http://www.unicef.org/brazil/pt/resources_10230.htm. Access: 20 jul. 2018.

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