

IMPLICATIONS ARISING FROM THE PROCESS OF IMPLEMENTATION OF THE ACTIVITY CLASS IN EARLY CHILDHOOD EDUCATION AND EARLY YEARS OF THE MUNICIPAL SCHOOL NETWORK OF RECIFE



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ABSTRACT

This study aims to evaluate the implementation of the Activity Class of the Municipal Education Network of Recife and to propose to the Department of Education of Recife an Educational Action Plan to improve its implementation proposal, in the perspective of demonstrating the illegality of the replacement of teachers by distance classes on the day of their leave. The justification for the development of this research is based on the Law of Guidelines and Bases of National Education, Law n. 9394/96 and Law 11.738/2008, which regulates the national professional salary floor for public teaching professionals in basic education, as well as Resolution n. 18 CNE/2012, which regulates the implementation of 1/3 of Class Activity. The research is qualitative, of a documentary nature. The analysis of this content is based on Bardin (2016), Boaventura (2018), Apple (1999). In view of the aspects presented, this study was carried out at the request of the discipline Curriculum Evaluation and Institutional Evaluation experienced in module III of the Master's Degree in Educational Sciences in the capital of the Republic of Paraguay.

Keywords: Institutional Evaluation, Activity Class, Educational System, School Days.

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INTRODUCTION

The present work has as its theme the elaboration and implementation of the activity class for education teachers in the City of Recife/PE. To understand the reasons that aroused the desire to study the theme, we initially have a view of the national scenario in this context, and then enter into local issues. In the national scenario, the challenges of teacher professionalization, especially in Basic Education, are one of the most important themes, due to the relevance of the teaching role in providing quality education for students, whether in the cognitive or humanistic dimension. For this, it is essential to understand the school as an institutional space for the systematic production and dissemination of knowledge historically constructed by society.

In this sense, the continuing education of teachers provided by the implementation of the activity class assumes a fundamental role, complementing the initial training, especially from the point of view of updating and the constant exchange of experiences with peers, as a systematic training process.

Studying the history of Recife and its historical formation, it is found that this reality is composed of a capitalist, colonial and patriarchal society, according to Boaventura (2018, p. 1):

By reference to the three main modes of domination of the modern era: capitalism, colonialism and patriarchy or, more precisely, hetero-patriarchy. None of these categories is as controversial, either among social movements or in the scientific community, as colonialism. We have all been so socialized in the idea that the anti-colonial liberation struggles of the twentieth century put an end to colonialism that it is almost heresy to think that colonialism has not ended after all, it has only changed its form or clothing, and that our difficulty is above all to properly name this complex process of continuity and change.

But the mode of colonial domination continued in other forms and, being considered as such, colonialism is perhaps as current and violent today as in the past (BOAVENTURA, 2018). When the City of Recife fails to offer students in the Municipal Education Network the minimum required by law, it denies quality education to its students.

The Law of Guidelines and Bases of National Education nº 9394/96 deals with the organization of Basic Education in some of its articles: 12, III; 24, I; 34; 13, V and 67, V. Thus, educational establishments, respecting the common norms and those of their education system, will be responsible for: art. 12, III "ensuring compliance with the established school days and class hours". Article 24, I, on the other hand, ensures that basic education, at the elementary and secondary levels, will be organized according to the

following common rules: "the minimum annual workload will be eight hundred hours for elementary and secondary education, distributed over a minimum of two hundred days of effective school work, excluding the time reserved for final exams, when there is one". Article 34 states that "The school day in elementary school will include at least four hours of effective work in the classroom, with the period of permanence in school being progressively extended".

For teachers, the Law of Guidelines and Bases of National Education makes it clear in its article 13, V that "Teachers will be responsible for: teaching the established school days and class hours, in addition to fully participating in the periods dedicated to planning, evaluation and professional development". And finally, in article 67, V, it states that "The education systems shall promote the valorization of education professionals, ensuring them, including under the terms of the statutes and career plans of public teaching: a period reserved for studies, planning and evaluation, included in the workload". In this area of understanding, teachers based on article 20, paragraph 40, which establishes a maximum limit of $\frac{2}{3}$ (two thirds) of the workload for the performance of interaction activities with students and are entitled to $\frac{1}{3}$ (one third) of their working day focused on the class activity. It should be clarified that Law No. 11,738/2008 was challenged before the Federal Supreme Court through the Action for Declaration of Unconstitutionality filed by the state governments of Mato Grosso do Sul, Rio Grande do Sul, Paraná, Ceará and Santa Catarina, still in 2008, it is worth noting that the aforementioned ADIN has already been overcome by a final decision of that Court and was rejected, and Law No. 11,738/2008 is considered constitutional.

The debate held in society that asked what the workload of $\frac{1}{3}$ (one third) would be destined for was answered by the text of the law that in its core says that they are actions of preparation, monitoring and evaluation of their pedagogical practice. It is notorious and all the actors agree that the teacher's class does not begin when he enters the classroom, because the preparation of the class requires study and time for its preparation, it does not work improvised, the preparation and research begins before.

EDUCATION SYSTEM OF THE MUNICIPAL NETWORK OF RECIFE AND COMPLIANCE WITH LAW NO. 11.738, OF JULY 16, 2008

When drawing an overview of the trajectory of the implementation of the class activity in the Education System of the City of Recife, one can see a trajectory of many

mishaps, the teachers with more time in service remember the struggles waged by the category to reduce the time of interaction with students, there were many movements such as stoppage, strike and a lot of negotiation along this trajectory (SIMPERE).

It is faced with teachers exercising their function beyond the classroom, because in the face of the demands arising from public policies, technological innovations, the teacher is required to develop new skills for his teaching practice and, it should be agreed that the acquisition of this knowledge requires time for study, research and learning.

According to the World Health Organization, the teaching profession ranks second among the professions that cause the most health disorders. There are several factors that contribute to this illness, such as excessive workload and professional devaluation.

The problematization for the guarantee of class activity is as listed in the LDB, established by the Law of Guidelines and Bases of National Education - LDB n0. 9394/96, *in verbis*: art. 24, I. Basic education, at the elementary and secondary levels, will be organized according to the following common rules: "the minimum annual workload will be eight hundred hours for elementary and secondary education, distributed over a minimum of two hundred days of effective school work, excluding the time reserved for final exams, if any" (Text given by Law No. 13,415, of 2017). Therefore, the Department of Education of Recife needs to guarantee the precept of the LDB in the implementation of the activity class for the teacher.

In compliance with Law n0. 11.738/2008, which determines, in its article 20, § 40, that, "in the composition of the working day, the limit of 2/3 (two thirds) of the workload for the performance of activities of interaction with students will be observed". Still under the guidance of Resolution No. 18 CNE/2012, which regulates the implementation of 1/3 of the Activity Class¹, in February 2013, the Department of Education appointed a joint committee to prepare the proposal for the Activity Class. The commission was formed by representatives of various segments: managers, coordinators, technicians, union, among others, in order to discuss and suggest ways for the municipality to guarantee this right to teachers.

That same year, starting in August, the Secretariat implemented the Activity Class for teachers II – who teach from 60 to 90 years old and high school. The way found to implement the activity class for the teacher of Elementary School II was to increase the Workload, according to DECREE N0. 27.307 OF AUGUST 23, 2013:

AUTHORIZES AN INCREASE IN THE WORKLOAD FOR TEACHERS II OF THE MUNICIPAL EDUCATION NETWORK, IN ORDER TO ENSURE THE IMPLEMENTATION OF THE CLASS-ACTIVITY IN ITS ENTIRETY, AS ESTABLISHED IN § 40 OF ARTICLE 20 OF FEDERAL LAW NO. 11,738, OF JUNE 16, 2008.

Greeting from the LDB with regard to school days is guaranteed, because for schools of Elementary School, Final Years and High School, setting up the timetable, leaving the days of classes activities for teachers, after the increase in the workload, did not present great difficulties. The great challenge of the Department of Education of the City of Recife was to guarantee the class activity for teachers without hurting the students' right to the school days guaranteed by the LDB.

The Department of Education of the city of Recife implemented in 2014 through Law n0. 18.033/2014 the implementation of the Activity Class for the teacher I in class regency in the Municipal Education Network of Recife, praying that meeting the percentage established in Federal Law n0. 11.738/2008, corresponding to 1/3 (one third) of the teacher's workload. In article 20 of Law n0. 18.033/2014 the Department of Education of the Municipality of Recife, allows the teacher to choose to receive the special allowance, remaining in activities of interaction with the students.

The City Hall of Recife, represented by the current mayor, has made a commitment to pay a bonus for the teacher to continue interacting with the student, being 100% and 50%. If the teacher accepted to receive the bonus in the form of pecunia in the amount of 100%, he did not withdraw the Activity Class and continued with 100% interaction with the students, in this case the teacher planned on another day and time, in case the teacher accepted only 50% of the allowance in the form of pecunia, he had the right to reduce the time of interaction with the student, withdrawing the Activity Class every 15 days. The activity class allowance is exclusive for category I teachers (early childhood education and 10 to 50 years of elementary school). It corresponds to 15 hours/class of the monthly workday, whose value varies according to the teacher's workload, in 2013, the City of Recife started the payment of the three installments of the bonus, which covered from August to December 2013.

As the activity class represents 1/3 of the monthly workload of teachers and is intended for the planning and evaluation of activities, outside the classroom. That year (2013), a commission formed by technicians from the Department of Education and representatives of the municipal teachers' union, Simpore, defined that category I teachers

would begin to exercise 1/3 of their activity from February 2014. Until then, they will receive the cash bonus to complement the workload, according to Law N0. 18.033/2014:

"PROVIDES FOR THE IMPLEMENTATION OF THE CLASS-ACTIVITY FOR TEACHER I IN CLASS REGENCY IN THE MUNICIPAL EDUCATION NETWORK, AND PROVIDES FOR OTHER PROVISIONS".

Article 10 praying about the Activity Class, in the percentages established in Federal Law n0. 11.738, of July 16, 2008, ensures that it will be fully implemented as of June 2014. In its Sole Paragraph, it is stated that:

The Activity Class, corresponding to 1/3 (one third) of the teacher's workload, will be intended for extra-class activities, such as training activities, planning, evaluation and meetings, as well as other specific attributions of the position of the teaching occupational group that do not constitute interaction activities with the students.

Article 20 provides that "As of July 10, 2014, teacher I, in class regency in the municipal school system of Recife may, in the form and term defined in a regulation of the Department of Education, choose to receive a special allowance, remaining in activities of interaction with students.

In June 2014, the Department of Education of Recife implemented the Activity Class for all its teachers, 1/3 of the monthly workload reserved for activities outside the classroom, such as planning and continuing education, as determined by Law No. 11,738 (Floor Law), because in August 2013, the right had already been guaranteed to teachers from 60 to 90 years old (teachers II) with the addition of the workload. On the other hand, teachers of early childhood education and from 10 to 50 years old (teachers I) received the provisional allowance from January to May of 2014, while the activity class had not yet been fully implemented.

The City Hall of Recife carried out a Simplified Selection to hire teachers to take over the classroom on the day of the Teacher's Activity Class, occurring, in practice, that the teacher worked only 04 days with the students, in a class week considering Monday to Friday. It is a fact that on the day of the Activity Class, in the classes of early childhood education and early years, the class was taken over by a hired teacher who worked, usually with the Waves of Reading Project.

The Waves of Reading Project, implemented by the Recife Department of Education, included more than 60,000 students enrolled in Elementary School and EJA. At the beginning of each school year, 9 paradidactic books were given to be worked on and

studied in the classroom, one each month, and then the students produced short stories, retellings and took them home to their private library. Started in 2014, the project was part of the Recife Literacy Program (PROLER) and was carried out in partnership with the Meta Institute for Education, Research and Training of Human Resources (IMPEH), which offered pedagogical support to stimulate reading and text production. Several books were launched with the work done by the students. At this time, the teachers who were selected by the simplified selection replaced the teachers who were in their Activity Class.

At this moment in history an interesting fact occurred, perhaps due to low salaries, several teachers went to the Department of Education requesting the maintenance of the bonus, there were several requests from teachers who wanted to continue receiving the Activity Class in cash, as of July, the Secretariat decided to give teachers the right to choose the option that best met his need, all agreed with Simpere. It is important to emphasize that, in this way, the Municipality of Recife was not violating the agreement with the category or with the law, since opinion n0. 18/2012 of the Ministry of Education, through the National Council of Education, says that the Activity Class could be implemented gradually.

However, during the years 2015, 2016, 2017, 2019, 2020, 2021, 2022, 2023, which are the Time Frame of this trial, the substitute teachers, hired by the Simplified Selection, were diverted to make up for the deficit of teachers that existed for the regular classroom, due to retirements, deaths, readjustments of functions and other reasons that kept the teacher away from teaching. A situation of abandonment and non-compliance with the Law of Guidelines and Bases of Education was created, as the students of the Recife Educational Network, from the Early and Elementary Years, started to have only 04 days of class per week and on the day of the Class Teacher's activity stayed at home, as there was no substitute teacher to take over the classroom.

RECIFE BLENDED LEARNING PROGRAM

Due to the pandemic caused by the new coronavirus, Covid-19 pandemic, teacher and student were affected in a different way by the crisis and its multiple impacts, as provided for in the International Health Regulations, face-to-face classes were suspended on March 17, 2020 in the Municipal Education Network of Recife, to mitigate and stop the pandemic several measures were taken to, One of them being the closure of schools and

universities to prevent the spread of the virus and the circulation of people, avoiding agglomerations.

In a connected world, the pandemic has shown the harsh reality of schools in Pernambuco, the vast majority without internet, without enough computers to promptly meet the demand arising from the call for remote classes. After several studies, in July 2020, the Department of Education organized the start of remote classes for students through whatsapp groups and the MEET platform, with minimal student interaction.

In June 2021, EducaRecife was launched by the Recife City Hall, through the Department of Education, focusing on supporting the learning of more than 95 thousand students in the Municipal Education Network of Recife is the Hybrid Teaching Program of Recife, The Municipal School for Digital Classes was created with the challenge of offering innovative classes to all students and is formed by a management team and more than 40 teachers.

The Municipal School for Digital Classes has a management team and more than 40 teachers and has the challenge of offering innovative classes, but as it says on its Platform, they did not come to replace face-to-face classes with teachers from other schools (<http://educ.rec.br/educarecife/aulasdigitais/>).

THE PRINCIPLE OF LEGALITY IN THE DEMOCRATIC STATE OF LAW

In view of the mandatory observance of the Principle of Legality in the Democratic State of Law, a principle engraved in Article 37 of the Federal Constitution, it is not up to the Mayor's authority to comply with or not comply with a law.

Failure to comply with the Law of Guidelines and Bases of National Education by the mayor of the municipality of Recife can generate serious legal consequences, as the Head of the Executive Branch cannot fail to comply with a law, whether national, state or municipal, without violating the Principle of Legality provided for in CF/88, in its article 37 where it prescribes that: "The direct and indirect public administration of any of the Powers of the Union, the States, the Federal District and the Municipalities shall obey the principles of legality, impersonality, morality, publicity and efficiency". The following should also be observed: "The Public Administration has the duty to do only what the law allows, as stated in the Principle of Legality", This postulate of Brazilian law, in addition to being provided for in article 37, is provided for in article 5^o, item II, of the Federal Constitution, which establishes that "no one shall be obliged to do or refrain from doing anything except by

virtue of law". That said, from the analysis of the above provisions, which deal with legality in CF/88, it is clear that if there is a law in force for the public administration, it needs to be complied with, due to the natural coercibility of the rule.

Although the Principle of Legality is, in itself, the cause for which the Municipal Mayor needs to comply with the rules of the legal system, there are other provisions in Brazilian law that provide sanctions for non-compliance with the rules, namely: Decree-Law no. 201 of February 27, 1967, which provides for the responsibility of Mayors and Councilors, and provides for other provisions. In article 10 it states that:

The following are crimes of responsibility of the Municipal Mayors, subject to the judgment of the Judiciary, regardless of the pronouncement of the City Council: [...] XIV – To deny execution of federal, state or municipal law, or to fail to comply with a court order, without giving the reason for the refusal or impossibility, in writing, to the competent authority.

The provision refers to the control mechanism of the system of checks and balances, preventing the Head of the Executive Branch from disregarding current laws or unjustifiably disobeying judicial commands and laws in force.

Law No. 14,2030, of October 25, 2021, which amends Law No. 8,429, of June 2, 1992, which provides for administrative improbity, also provides in its article 11 caput, and § 30 that:

An act of administrative improbity that violates the principles of public administration is an intentional action or omission that violates the duties of honesty, impartiality and legality, characterized by one of the following conducts:
§ 30 - The classification of functional conduct in the category dealt with in this article presupposes the objective demonstration of the practice of illegality in the exercise of public function, with the indication of the constitutional, legal or infra-legal norms violated.

The current Federal Constitution, in its Article 50, item II, provides that: "no one shall be obliged to do or refrain from doing anything except by virtue of law". However, for Administrative Law, there is no such freedom, given that the public agent will follow the path disciplined by law, and cannot disregard current laws.

CONCLUSION

The object of this article was to study the implementation of the Activity Class in the Early Years of Elementary School and Early Childhood Education in the Municipal Education Network of Recife and its legal implications, focusing on the reduction of school

days due to the absence of the teacher from the classroom on the day of his class activity and the lack of the substitute teacher to assume the regency.

Law No. 11,738/2008 that established the National Professional Salary Floor for public teaching professionals in Basic Education set a maximum limit of the teacher's workload for interaction with the student. From its implementation in 2014 to the current year, the Department of Education of Recife has not been able to guarantee the effective implementation of the activity class without disrespecting the fulfillment of the 200 school days guaranteed by the Law of Guidelines and Bases of National Education - Law n. 9394/96, in the face of the silence of SIMPERE (Union of Teachers of the Municipal Network of Recife), of the families and the Public Prosecutor's Office of Pernambuco who do not take steps for the Department of Education together with the mayor to hire teachers to guarantee the 200 school days.

Currently, without the proper legal support, on the day of the class teacher's activity students are staying at home with the excuse of remote class, receive a class sheet and attend class from home, confronting what the Department of Education itself says on its EducaRecife Platform that classes in digital format and remotely did not come to replace face-to-face classes with teachers from other schools (<http://educ.rec.br/educarecife/aulasdigitais/>), classes in the remote format had legal support, in an exceptional way during the pandemic caused by the coronavirus, ceasing with the return of face-to-face teaching.

It is then possible to perceive the non-compliance with the Law of Guidelines and Bases of National Education - Law n. 9394-96 and the commission of illegality by the person responsible for education of the Municipal Education Network of Recife, not only violating the Principle of Legality, but also committing a Crime of Responsibility according to Decree-Law n. 201 of February 27, 1967 which provides for the responsibility of Mayors and Councilors, and makes other provisions. As well as Administrative Improbity, according to Law No. 14,2030, of October 25, 2021, which amends Law No. 8,429, of June 2, 1992.

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