

The university degree: a right, not a favor – understand its deadlines, responsibilities and how to act in case of problems

The university diploma: a right, not a favor – understand its deadlines, responsibilities, and how to act in case of problems

Daniel Melo da Silva¹

SUMMARY

The issuance of a university diploma, although a fundamental student right, is often shrouded in misinformation and problems. This article aims to demystify the process, detailing the legal framework governing the issuance and registration of diplomas in Brazil, focusing on the responsibilities of Higher Education Institutions (HEIs) and student rights. It addresses the legal deadlines for document delivery, the prohibition of additional charges, and the documentation requirements. Furthermore, it analyzes common issues, such as delays in delivery, requests for early graduation, and the closure of HEIs, offering guidance on how students can pursue their rights with the Ministry of Education (MEC), consumer protection agencies, and the Judiciary.

Keywords: University diploma. Educational legislation. Issuance of diploma.

Diploma registration. Student rights. Higher Education Institutions.

ABSTRACT

The issuance of a university diploma, while a fundamental right of the student, is often shrouded in misinformation and problems. This article aims to demystify the process, detailing the legal framework governing diploma issuance and registration in Brazil, focusing on the responsibilities of Higher Education Institutions (HEIs) and student rights. It addresses legal deadlines for document delivery, the prohibition of additional fees, and documentary requirements. Furthermore, it analyzes common issues such as delays in delivery, requests for early graduation, and HEI closures, providing guidance on how students can assert their rights with the MEC, consumer protection agencies, and the Judiciary.

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Student rights. HEY.

1. INTRODUCTION

The academic journey is a path of dedication and effort that culminates in obtaining a one of the most significant documents in a professional's life: the higher education diploma.

¹ Postgraduate in Corporate Compliance, Unyleya College (UNYLEYA), Bachelor's degree in Systems Analysis and Development, Catholic University of Brasília (UCB) and Bachelor's degree in Law from IESB University Center (IESB) Brasília, Federal District, Brazil. E-mail: daniel.msoab@gmail.com

However, the issuance and registration of this essential document are, on many occasions, hampered by doubts, myths and a notable lack of information, both on the part of students and professionals in the field of education. This scenario becomes an obstacle to the full exercise of educational and professional rights of individuals.

In this context, the main objective of this article is to demystify the process of issuance of the university diploma in Brazil. To this end, the legal framework that underpins it, outlining the responsibilities of Higher Education Institutions (HEIs) and, above all, the rights inherent to students. The rules, deadlines and procedures that must be strictly observed, as well as the challenges and problems common issues that may arise, such as delays in delivery, requests for advance payment degree conferral and the complexities arising from the de-accreditation of institutions.

The purpose is to help the student with knowledge, providing him with the necessary tools to act effectively in the event of any irregularities, ensuring the validity and timeliness of their qualification.

2 THEORETICAL FRAMEWORK

The theoretical framework of this study is anchored, firstly, in the understanding of law to education and academic certification as fundamental elements of the legal system Brazilian.

The issuance and registration of a higher education diploma are not mere bureaucratic acts, but rather the realization of a fundamental right of the citizen, outlined by the Constitution Federal Law of 1988 and expanded into the Law of Guidelines and Bases of National Education (Law No. 9.394/1996 - LDB). The LDB, as a structuring standard for education in the country, establishes the general guidelines, conceptualizing higher education and the responsibilities of higher education institutions Higher Education (HEI) in the granting of degrees and titles.

In this normative context, key concepts such as "expedition" (the act of issuing the document by the HEI that offered the course) and "registration" (the validation and publicity of the diploma, giving it national validity) are crucial.

Understanding these steps is vital to discerning responsibilities and autonomies of the different categories of HEIs (universities, university centers and colleges), according to detailed in Decree No. 9,235/2017 and Ordinance No. 1,095/2018 of the Ministry of Education (MEC).

These normative instruments not only define deadlines and procedures specific to each type of institution, but also establish the documentary requirements minimums, the prohibition of additional charges and transparency mechanisms.

Analysis of legal and educational literature reveals a consensus on the need of strict regulation to ensure the suitability of diplomas and, consequently, the credibility of the Brazilian educational system, while exposing gaps in the effectiveness of the application of the rules, evidenced by disputes and complaints about slowness or irregularities in the delivery of documents.

3 LEGAL BASIS AND PRACTICE FOR ISSUING DIPLOMAS

3.1. THE DIPLOMA AS A RIGHT AND RESPONSIBILITY

INSTITUTIONAL THEORETICAL FRAME

It is essential to understand that a higher education diploma is not a favor or concession from the educational institution. On the contrary, it is a right guaranteed to the student who fully complied with all academic requirements set out in the Course Pedagogical Project (PPC). The document officially confirms that the student has completed the workload schedule, the curriculum and was approved in all stages of the course. Its issuance, however, must occur within legal deadlines and its registration is an essential condition for the diploma is valid nationwide, as provided for in *Article 2 of Ordinance No. 1,095, of October 25, 2018*:

"Recognized higher education diplomas, when registered, will have national validity as proof of the education received by their holder."

The responsibility for issuing the diploma lies with the Educational Institution Higher Education Institution (IES) that offered the course, guaranteeing its validity and regularity. This understanding

is consolidated in *Art. 53, section VI, of Law No. 9,394/1996*, which establishes among the attributions of universities "to confer degrees, diplomas and other titles". It is crucial to note that the Ministry of Education (MEC) does not have the authority or the power to issue or register diplomas of higher level; its role is one of regulation and supervision.

The autonomy for registering diplomas is detailed in *Decree No. 9,235/2017* and in *Ordinance No. 1,095/2018*:

- **Federal Universities and Institutes:** According to *Art. 99, § 1, of Decree No. 9,235/2017*, and *Articles 3 and 4 of Ordinance No. 1,095/2018*, these institutions hold autonomy to register the diplomas issued by them, in addition to being able to register diplomas issued by institutions without autonomy.
- **University Centers:** The registration prerogative is more restricted, limited to diplomas of the courses they themselves offer (*Art. 99, § 2, of Decree No. 9,235/2017* and *Art. 5 of Ordinance No. 1,095/2018*).
- **Colleges (without autonomy):** Diplomas issued by these institutions must be registered by accredited universities, Federal Institutes of Education, Science and Technology or Federal Centers for Technological Education (*Art. 3 and 4 of Ordinance No. 1,095/2018*). Exceptionally, colleges linked to the federal education system can obtain the right to register their own diplomas through a process evaluation linked to institutional re-accreditation, under the terms of *Art. 27 of the Decree No. 9,235/2017* and *Art. 6 of Ordinance No. 1,095/2018*, in addition to the *MEC Ordinance No. 23/2017*.

3.2. DEADLINES AND PROCEDURES FOR ISSUE AND REGISTRATION

Ordinance No. 1,095/2018 establishes deadlines that must be strictly observed by Educational Institutions in the process of issuing and registering diplomas, differentiating them according to the degree of autonomy of the institution:

- **Duly accredited HEIs (all):** Must issue their diplomas within the deadline maximum of 60 days, counted from the date of graduation (*Art. 18 of Ordinance No. 1,095/2018*).

- **IES with Autonomy (Universities, Federal Institutes):** After the expedition, the diploma must be registered within a maximum period of 60 days, counting from the date of its expedition (*Art. 19 of Ordinance No. 1,095/2018*). For these institutions, the process complete may take up to 120 days after graduation.
- **HEIs without Autonomy (Colleges):** After issuing the diploma, the issuing HEI must forward it to the registering HEI within a maximum period of 15 days (*Art. 19, § 1, of Ordinance No. 1,095/2018*). The registering HEI, in turn, must register the diploma within a maximum period of 60 days, counting from receipt of the document (*Art. 19, § 2, of the Ordinance No. 1,095/2018*). Thus, for those who graduate from a college without autonomy, the total process can reach a maximum of 135 days (60 + 15 + 60) after the graduation ceremony.

The established deadlines may be extended by the IES only once, for the same period. period, provided that it is duly justified by the institution (*Art. 20 of Ordinance No. 1,095/2018*). Failure to comply with these deadlines, both in the issuance and registration of diplomas, constitutes administrative irregularity, subject to supervisory measures (*Art. 22 of Ordinance No. 1.095/2018*).

3.3. TRANSPARENCY, FREE OF CHARGE AND DOCUMENTARY REQUIREMENTS

Ordinance No. 1,095/2018 establishes important characteristics and restrictions in relation to to the diploma:

- **Prohibition of Identification of Modality:** Identification of the modality of teaching in the issuance and registration of diplomas, that is, it cannot appear on the diploma if the course was carried out in person or remotely (*Art. 8 of Ordinance No. 1.095/2018*).
- **Free Service:** Issuance and registration of the diploma, final academic transcript and the course completion certificate are considered educational services already included in the annual or semiannual fee. Therefore, the institution cannot charge any additional amount for these documents, except in the event of

decorative presentation, using special paper or graphic treatment, by exclusive option of the student (*Art. 9 of Ordinance No. 1,095/2018 and Art. 99, § 4, of Ordinance Normative No. 23/2017, included by Normative Ordinance No. 742 of 2018*). The *Opinion CNE/CES nº 11/2010* corroborates this understanding, stating that the charging of fees for diploma registration would be "a charging procedure beyond that established by the Educational Services Provision Contract".

For the purposes of transparency and authenticity, all HEIs, public or private, are required to maintain an online diploma registration database, accessible on their websites electronic. This bank must allow public consultation of basic data of the registered diploma, such as student name, course, issuing and registering HEI, entry and completion dates, issuance and registration of the diploma, and identification of the issuance and registration numbers (*Art. 23 of Ordinance No. 1,095/2018*). This measure aims to guarantee the traceability and veracity of information.

The diploma registration process must be accompanied by essential documents that guarantee authenticity, security, validity and effectiveness of the legal acts to be produced (*Art. 11 of Ordinance No. 1,095/2018*). *Art. 12 of Ordinance No. 1,095/2018* lists the minimum necessary documents, such as: letter forwarding the diploma to the HEI registrar, term of responsibility of the competent authority of the issuing IES, copy of the student's civil identity documents, proof of completion of high school or equivalent, academic record of the higher education course completed, the diploma to be registered and term of responsibility of the registering HEI.

3.4. COMMON CHALLENGES AND MITIGATION ACTIONS

Despite the clarity of the legislation, practice shows that students can face several problems related to the issuance of their diplomas. It's crucial to understand these issues, challenges and the appropriate measures to solve them.

3.4.1. DELAY IN DELIVERY OF DIPLOMA

The delay in issuing the diploma by the HEI, exceeding the established legal deadlines (Arts. 18 and 19 of Ordinance No. 1,095/2018), constitutes an administrative irregularity. It is important that the student is aware of these deadlines and the obligation to issue and registration to demand compliance with institutional responsibilities. If there is a delay disproportionate, the student can contact the MEC through FALA.BR, so that the agency verify the case and may urge the HEI to make a statement or even initiate a process of supervision.

Delay in delivery can cause major inconvenience to the student, preventing him from practice the profession, participate in public competitions or enter postgraduate programs graduation. Such a situation may even lead to the Educational Institution being held liable for any damages. The Court of Justice of the Federal District and Territories, for example, has already expressed in this sense:

"(...) In the present case, the plaintiff found herself deprived of her right to practice her chosen profession because the defendant had issued her course completion diploma, correctly, only 2 (two) years and six months after said completion. (...) The inconveniences described go beyond the sphere of mere daily annoyance and give rise to a tarnishment of subjective rights inherent to the consumer's objective, subjective honor." (Judgment 1315855, 07041336520208070004, Rapporteur Des. ALFEU MACHADO, Sixth Civil Chamber, judgment date: 02/03/2021, published in the DJE: 02/23/2021).

and

3.4.2. ANTICIPATION OF DEGREE CONFERRAL

Graduation is a formal act that concludes the course and is a mandatory requirement for issuance of the diploma. In exceptional situations, such as appointment in public tenders or job offers, the student can request to bring this action forward. The decision on the anticipation of graduation is the exclusive responsibility of the educational institution itself, with based on its internal regulations, falling within the field of institutional autonomy ensured by Art. 53 of Law No. 9,394/96.

In cases where the HEI rejects the request for advance payment, students can seek the legal route to challenge the denial, if they believe they have the right to the measure.

The Federal Regional Court of the 1st Region, for example, has already upheld a decision that brought forward the graduation of a student who had completed all academic requirements due to job offer:

"(...) it does not seem reasonable to prevent the advance granting of the degree requested, especially in a situation, as in this case, where the student has already successfully completed all the subjects of the course, with no other impediments or pending issues, and has received a job offer in the private sector."

(REOMS 1000158-44.2018.4.01.4300, FEDERAL JUDGE SOUZA PRUDENTE, TRF1 - FIFTH PANEL, PJe 03/07/2020).

3.4.3. IES CLOSED ITS DOORS: WHAT TO DO?

When an HEI is de-accredited or ceases its activities, the question arises as to who will be responsible for issuing and registering diplomas and for safeguarding the academic collection. Decree No. 9,235/2017 regulates the matter, making it clear that the Educational Institution, by through its maintainer and its legal guardian, remains responsible for these obligations, even after the de-accreditation (Art. 57 and Art. 58 of Decree No. 9,235/2017). The maintainer is defined as the legal entity that provides the resources and legally represents the HEI (Ordinance No. 21/2017). The director of the HEI and the legal representative of the sponsor are personally responsible for the custody and maintenance of the academic collection (Art. 39 of Ordinance No. 315/2018).

Responsibility for the safekeeping of academic collections may be transferred to another HEI duly accredited, through a transfer and acceptance term (Art. 58, § 2, of the Decree No. 9,235/2017). In cases where the maintainer is proven to be unable to maintain custody, the MEC may authorize the transfer of the collection to a Federal Higher Education Institution (IFES) from the same federative unit (Art. 58, § 4, of Decree No. 9,235/2017).

Additionally, to protect students, Art. 26 of Ordinance No. 1,095/2018 establishes that courses whose recognition requests have been filed within the deadline and have not been completed by the date of completion of the first class are considered recognized, exclusively for the purposes of issuing and registering diplomas.

If the HEI has closed its doors and the student is unable to obtain his/her diploma or academic documents, he can seek assistance from the National Consumer Secretariat



(SENACON) of the Ministry of Justice, to the Public Ministries or directly to the Power Judiciary. The relationship between the student and the HEI is a consumer relationship, with the student being a party vulnerable. Art. 14 of Law No. 8,078/1990 (Consumer Protection Code) establishes the strict liability of the service provider for damages caused. The Superior Court of Justice (STJ) consolidated this understanding in Summary 595-STJ:

"Higher education institutions are objectively liable for damages suffered by the student/consumer due to taking a course not recognized by the Ministry of Education, about which they were not given prior and adequate information."

Based on the legal and practical basis for issuing diplomas, it is concluded that the a higher education diploma is a right of the student who fully meets the requirements academic, and not a concession from the educational institution. Current legislation establishes clearly the responsibility of Higher Education Institutions (HEIs) regarding the issuance and registration of this document, giving them different attributions according to their degree of autonomy. Therefore, ensuring that this process occurs within the legal deadlines is essential to guarantee the effectiveness of the right to certification of the training obtained.

However, practice reveals significant challenges that can compromise the exercise full right to the diploma, such as unjustified delays, rejection of legitimate requests of bringing forward the graduation ceremony and even closing the institution before completion of the process. In these cases, the legal system offers mechanisms for the protection of students, allowing the judicialization of demands, the action of the MEC and accountability of the HEIs for any material and moral damages.

Therefore, the issuance and registration of diplomas must be understood as steps criticism of the training process, demanding that institutions not only comply with the standards legal, but also the ethical commitment to the professional future of its students. The Knowledge of these rights and duties by students is essential so that they can monitor, demand and, if necessary, seek redress for institutional failures. legislation is clear, and its effective compliance is essential to guarantee confidence in Brazilian educational system.

2. MATERIAL AND METHOD

This article was developed based on a methodological approach of bibliographical and documentary research, focusing on the analysis of primary and secondary sources relevant to the issue of issuing and registering diplomas in Brazilian higher education.

Data collection was carried out through an exhaustive review of normative documents officials, including federal laws, decrees and ordinances of the Ministry of Education (MEC), which regulate the processes of accreditation, authorization, recognition of courses, issuance and registration of diplomas.

Additionally, relevant case law was analyzed, including decisions from higher and regional courts, summaries and opinions that consolidate the legal understanding on the rights of students and the responsibilities of Higher Education Institutions (IES).

The interpretation of these documents aimed to extract the legal requirements, deadlines established, institutional obligations and student protection mechanisms, allowing the construction of a comprehensive and well-founded overview that demystifies the process and offers practical guidelines for interested parties.

3. RESULTS AND DISCUSSION

Bibliographic and documentary analysis of the rules governing the issuance and registration of diplomas in Brazilian higher education, combined with the review of relevant jurisprudence, allowed us to outline a complex but fundamental scenario for guaranteeing the rights of students.

As a main result, a robust legal framework was identified, composed of the Law of Guidelines and Bases for National Education (LDB), Decree No. 9,235/2017 and Ordinance No. 1.095/2018 of the Ministry of Education, among other complementary regulations. This set of rules clearly establishes that a higher education diploma is a right of the student who has completed their training, not a mere concession from the Higher Education Institution (HEI).

The discussion of these results reveals significant implications for theory and practice educational. In practical terms, the legislation imposes strict deadlines for issuance (60 days after graduation) and registration (another 60 days, or 15+60 days for HEIs without autonomy), the which, in theory, should ensure the speed of the process. However, the persistence of demands judicial and administrative actions for delays, as demonstrated by Ruling 1315855 of the TJDF, points to a gap between the normative provision and the effective application. This suggests that, although the rule is explicit, monitoring and sanctions for non-compliance are not always sufficient to inhibit institutional delinquency, requiring the student to adopt a proactive stance in defense of their rights.

Another fundamental point of the results is the prohibition of additional charges for issuance and registration of the diploma, in accordance with Art. 9 of Ordinance No. 1,095/2018 and the Opinion CNE/CES nº 11/2010. This measure aims to protect the consumer, reinforcing the nature of school tuition as full consideration for educational services. Under discussion, this rule is crucial to avoid abusive practices, ensuring that the cost of certification is already included in the monthly fee, with the sole exception of optional decorative versions. The mandatory online databases and the publication of extracts in the Official Gazette of the Union (Art. 23 and Art. 21 of Ordinance No. 1,095/2018) reinforce the transparency of the system, allowing the verification of the authenticity and validity of diplomas, which is a significant advance in combating fraud and unsuitable diplomas (Art. 25, §§ 3, 4 and 5 of Ordinance No. 1,095/2018).

Finally, the results highlight the ongoing responsibility of the IES's sponsor, even in cases of de-accreditation, for the custody of the academic collection and for the issuance of diplomas, according to Decree No. 9,235/2017. Discussion of this aspect is vital for the students harmed by institutions that close their activities. Although the MEC does not issue diplomas directly, the legal system provides pathways for students to pursue their rights via consumer protection agencies (Art. 14 of the CDC), Public Prosecutor's Office or Power Judiciary, with jurisprudence (Summary 595-STJ) consolidating objective liability of the HEI.

FINAL CONSIDERATIONS

An in-depth analysis of Brazilian educational legislation, notably Ordinance No. 1,095/2018, Decree No. 9,235/2017 and Law No. 9,394/1996 (LDB), reveals a robust framework designed to ensure regularity and transparency in the diploma issuance process. It is clear that a university degree is an unquestionable right of the student who complies academic requirements, and not a mere concession from the HEI.

The legislation establishes clear deadlines, prohibits undue charges and imposes maintenance of institutional responsibility even in scenarios of de-accreditation. However, the practice demonstrates that information and active monitoring are essential tools for students' rights are effectively guaranteed.

The delay in delivery, the unjustified refusals to advance graduation and the abandonment by unaccredited institutions are challenges that require students to knowledge of the available administrative and judicial avenues.

Consumer protection, MEC intervention and the actions of the Judiciary are pillars that ensure the validity and legality of the documents issued, reinforcing the credibility of the Brazilian educational system. Strict adherence to standards by IES, combined with the proactivity of students, is essential for the materialization of the path academic, the diploma fulfills its full function and dignifies years of dedication.

REFERENCES

- BRAZIL. Law No. 9,394, of December 20, 1996. Establishes the guidelines and bases of education national. *Official Gazette of the Union*, Brasília, DF, December 23, 1996. Available at: https://www.planalto.gov.br/ccivil_03/leis/l9394.htm.
- BRAZIL. Ministry of Education. Ordinance No. 315, of April 4, 2018. Provides for the procedures for maintaining and storing the academic collections of educational institutions higher. *Official Gazette of the Union*, Brasília, DF, April 5, 2018.
- BRAZIL. Ministry of Education. Ordinance No. 742, of August 3, 2018. Amends Ordinance Regulation No. 23, of December 21, 2017. *Official Gazette of the Union*, Brasília, DF, August 6, 2018.

BRAZIL. Ministry of Education. Ordinance No. 1,095, of October 25, 2018. Provides for the issuance and registration of diplomas for undergraduate and specialization courses at higher education level. *Official Gazette of the Union*, Brasília, DF, October 26, 2018.

NATIONAL COUNCIL OF EDUCATION (CNE). (2010). CNE/CES Opinion No. 11, of 27 January 2010.

FEDERAL DISTRICT. Court of Justice of the Federal District and Territories. (2021). Judgment 1315855, 07041336520208070004. Rapporteur Des. ALFEU MACHADO, Sixth Civil Chamber, judged on 02/03/2021, published in the DJE: 02/23/2021.

FEDERAL DISTRICT. Court of Justice of the Federal District and Territories. (2024). Judgment 1835252, 0752067-26.2023.8.07.0000. Rapporteur: CARMEN BITTENCOURT, 8th CIVIL PANEL, tried on 03/19/2024, published in the DJe: 04/04/2024.

BRAZIL. Superior Court of Justice. (2024). Resp. 1,945,851-CE and 1,945,879-CE. Min. Rel. Afrânio Vilela, tried on 05/22/2024 (Repetitive Appeal – Theme 1127).

BRAZIL. Regional Federal Court of the 1st Region. (2020). REOMS 1000158-44.2018.4.01.4300. FEDERAL JUDGE SOUZA PRUDENTE, FIFTH CLASS, PJe 07/03/2020.