

## Student Privacy and Learning Pods: New Education Models in a Pandemic

COVID-19 has given rise to new education models known as “learning pods.” Although pods combine the relative safety of remote learning with the strengths of in-person instruction, they also introduce challenges to student privacy that must be mitigated.



### Learning Pods Overview

A learning pod consists of students from a small group of families who study together in person, facilitated by a teacher or other supervisor. The goal is to retain the structure and supervision of in-person learning, while mitigating the COVID risks from large gatherings of students.<sup>1</sup>

Some pods supplement virtual learning, while others supplant other schooling arrangements. In one model, families set up a small, private group with other students, hiring a teacher or tutor to fully replace school-provided instruction.<sup>2</sup> The costs of supporting a teacher’s salary and providing other resources can be high, making this model likely inaccessible to lower- or middle-income families and subsequently raising concerns about heightened inequities.

Other models are aimed at increasing equity<sup>3</sup> and slowing learning losses that COVID-19 is creating.<sup>4</sup> Families are partnering with foundations to defray the expense of hosting a pod<sup>5</sup> or joining pods hosted by non-profits or local government agencies. In Cleveland, Ohio, for instance, nonprofits are establishing socially distanced learning “hubs” in churches, office spaces, and theaters to provide students with meals, structure, and a safe, connected place to learn.<sup>6</sup> San Francisco’s Department of Children, Youth and Their Families has launched a similar initiative.<sup>7</sup> Finally, some public schools themselves are organizing pods, supplementing virtual classroom instruction with in-person support from tutors, teachers, or other staff.<sup>8</sup>



### Pods and Student Privacy

Although their models vary, all pods raise legal and training challenges for student privacy.

#### *Legal Implications*

The legal implications for pods depend on the form they take. For parents forming pods as an alternative to traditional public schools, *federal* student privacy laws are unlikely to apply to the pod itself. The Family Educational Rights and Privacy Act (FERPA) applies only to educational institutions receiving federal funding, and like most private K-12 schools,<sup>9</sup> pods are unlikely to meet that qualification. However, if parents anticipate that a private tutor will need access to the students’ public school records, they can provide the school with written consent to release records. Likewise, states have passed nearly 130 student privacy laws, and private pods should be cognizant of state law requirements for both student privacy and homeschooling, as they could be farther reaching than FERPA.

For pods hosted by community-based groups or other local organizations, FERPA likely applies to the pods’ access to students’ records maintained by public schools. Therefore, access to those records for educational purposes would require parental consent or utilizing an exception to FERPA’s consent

requirement—most likely the “school official” exception. The “school official” exception allows access to student records if organizations (1) perform a service the school would otherwise perform, (2) are under direct control of the school, and (3) will only use the records for educational purposes.<sup>10</sup> While not legally required, a best practice for maintaining direct control of student data is for schools to enter into written agreements with any nonprofits or local agencies assisting with pods to govern their use, redisclosure, and retention of student records.

### Training and Capacity

Traditional schools rely on Information Technology professionals and other administrators to manage school technology and student data in accordance with best practices. Pod facilitators outside the school system, like community-based organizations or parents, likely lack this expertise but are responsible for protecting student privacy nonetheless. Therefore, they should take steps to ensure they understand risks and proper practices when dealing with student data. Fortunately, resources exist to support best practices for pod facilitators during COVID-19:

- Pod organizers can refer to CDT’s [online training module](#) covering student privacy and COVID-19.
- For parents hosting pods at home, CDT has provided [tips and tools](#) for vetting education technology (EdTech) and a [guide](#) on privacy questions to ask the school.
- CDT has also provided guidance on [securely transferring and sharing](#) student data and a [checklist](#) to help secure remote learning technology.
- The U.S. Department of Education has provided resources for drafting [data sharing agreements](#) and establishing [data governance policies](#).
- Finally, [Common Sense Media](#) has rated some EdTech services’ privacy protections.



## Conclusion

As the pandemic continues to unfold, the roles of schools and parents will evolve. Learning pods present new challenges for student privacy, but families, schools, and community organizations can ensure privacy protections through thoughtful preparation.



## Endnotes

1. New York Times, [Learning Pods During Coronavirus Explained](#).
2. Vox, [How Pandemic Learning Pods are Fueling the Private Tutoring Industry](#).
3. The 74, [When the Point of the Pod Is Equity: How Small Grants Are Empowering Parents of Underserved Students to Form Pandemic Microschools](#).
4. Chalkbeat, [How Much Learning Have Students Lost Due to COVID?](#)
5. Bloomberg, [‘Learning Pods’ Spread to Left-Behind Kids With Cities’ Help](#).
6. The 74, [Church Pews and Gymnasiums Become Learning Spots as Cleveland Scrambles to Help Students With Online Lessons](#).
7. SF Mayor, [Mayor London Breed Announces Community Learning Hubs to Support Distance Learning and Extension of Emergency Child and Youth Care for COVID-19 Frontline Workers](#).
8. Education Dive, [Districts Embrace In-Person Learning Pods for Marginalized Students](#).
9. U.S. Department of Education, [To Which Educational Agencies Or Institutions Does FERPA Apply?](#)
10. U.S. Department of Education, [Can schools disclose education records to community-based organizations performing outsourced tutoring programs using the school official exception?](#)