

# Small Schools in the Big Apple: How State-Level Policy Inhibits Microschooling and Learning Pods

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## Foreword

In this outstanding contribution to our series on microschooling, Juliet Squire explains the small-schools environment in New York City. Prior to the pandemic, the Big Apple had a small but growing microschool and learning pod community. NYC's frequent school closures throughout 2020 and 2021 caused many families to look more closely at these education options. Squire's description of the responses of families, nongovernmental bodies, and schools to students' needs shows Americans' entrepreneurial spirit during this time of educational crisis. But her explanation of New York State's stifling regulatory environment shows why more microschools and learning pods did not emerge during the pandemic—and might not emerge in the years ahead. One key lesson from this study—and others in this series—is that a state's policy disposition toward school choice, private schools, and homeschooling can thwart education innovation in many ways. For microschooling and learning pods to expand in NYC and elsewhere, state policymakers must assess and reform a host of statutes and regulations, even if such rules were created with student welfare in mind and have been on the books for generations.

—*Andy Smarick, Senior Fellow*

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## Executive Summary

Before the Covid-19 pandemic, few New York City students enrolled full-time in microschools (intentionally limited to 70 or fewer students) and their less formal cousins, learning pods. But during the public health crisis, many families found these small, mostly private-sector, learning communities an appealing option for sustaining their children's learning, development, and

socialization while limiting their exposure to Covid. Unfortunately, New York lacks public programs that would provide middle- and low-income families equitable financial access to these options. Moreover, sustaining these alternatives and their benefits to students will be difficult in a policy environment that already places significant constraints and burdens on private schools and homeschooling. Without reforms, microschools and learning pods are unlikely to play a robust or equitable role in New York City’s education landscape in the future.

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## Introduction

In the spring of 2020, schools across the country abruptly shuttered their doors and sent students home without a clear idea of when or how they would reopen. The Covid-19 pandemic had reached the U.S., daily cases and deaths were increasing exponentially, and hospitals were overwhelmed. Little was known about how schools and children might contribute to the spread of the disease. What followed was an unprecedented disruption to daily life—including traditional schooling.

As it became clear that the pandemic would continue to wreak havoc into the 2020–21 school year, families scrambled to meet their children’s needs. Nationally, about 20% of parents changed their child’s school—a significant increase from typical mobility patterns.<sup>1</sup> Many chose learning communities like microschools and learning pods, whose small size mitigated the risk of exposure.<sup>2</sup> By October 2020, 31% of parents had a child participating in a learning pod, and another 18% were looking to join one—mostly as a supplement, rather than a substitute, for regular schooling.<sup>3</sup> Some estimate that enrollment in microschools increased nearly 50% between the spring and fall of 2020, from about 410,000 to 610,000 students.<sup>4</sup>

During the pandemic, many parents in New York City turned to microschools and learning pods.<sup>5</sup> Policy conditions, however, are inhospitable to sustaining them for the long term. Without reforms, they are unlikely to play a robust role in NYC’s education landscape.

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## Pre-Pandemic Microschools and Learning Pods

### CONTACTS

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Microschools and learning pods existed in New York City before the pandemic. For example, Fusion Academy, a national network of microschools, opened its first of three campuses in NYC in 2013.<sup>6</sup> While the term “learning pods” was not in widespread use before the pandemic, homeschooled students—of which the city had approximately 8,100 in 2019—have long-standing practices for learning in small groups together, outside the system.<sup>7</sup>

While these intentionally small learning communities were rare in the city before spring 2020, complete and accurate estimates of the number of microschools and learning pods are imprecise because state and federal education agencies do not collect or report data on them.

### Key Definitions

*Microschool:* Intentionally small learning communities serving 70 or fewer students, which often—but not always—include multiage classrooms, use technology to personalize instruction, and prioritize student-led learning.

*Learning pod:* Intentionally small learning communities of fewer than 12 students who meet in person, outside a classroom. Learning pods are often a supplement, rather than a substitute, for regular schooling.

According to the most recent data on public and private schools from the National Center for Education Statistics (NCES), just 125 private schools and 10 public schools in NYC enrolled 70 or fewer students before spring 2020.<sup>8</sup> Together, these small schools enrolled 4,650 students.<sup>9</sup> But not all these are microschools, which are not merely small, but intentionally small. Microschools also often have multiage classrooms, use technology to personalize instruction, and emphasize student-led learning.<sup>10</sup>

Only some of the 135 schools have these key characteristics of a microschool. For instance, four of the schools that surface in the data are charter schools, which are often launched one grade level at a time, but do not intend to stay small for the long term. Some additional proportion of these schools may simply be struggling to recruit students. Still, these data provide an upper-bound estimate for enrollment in microschools in NYC before the pandemic, which was—at most—about 5,000 students.

However thin the data are on microschools in NYC, data on learning pods before the pandemic are virtually nonexistent. This is partly because learning pods are not necessarily a formal arrangement that students enroll in. Rather, these learning communities have many of their roots as informal collaborations within the homeschooling community. According to national data, approximately 54% of homeschool students in urban areas receive instruction from a private tutor or a homeschool co-op.<sup>11</sup> If the same percentage holds for the 8,100 homeschooled students in the city, an additional 4,000 students may have participated in a pod-like learning environment before the pandemic.

The estimates are admittedly rough, but even if we underestimated enrollment in microschools and learning pods by half, they would still constitute barely 1% of the 1.37 million school-age children in NYC.<sup>12</sup> Clearly, microschools and learning pods were an infinitesimally small niche of the city's education landscape before the pandemic.

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## Microschools and Learning Pods Expand

School closures started in NYC with elite private institutions like Spence and Collegiate closing in the first week of March 2020.<sup>13</sup> The Archdiocese of New York announced broad school closures the next week,<sup>14</sup> followed a day later by Success Academy Charter Schools.<sup>15</sup> While private and charter schools closed one school or network at a time, Mayor Bill de Blasio announced on March 15 that the NYC school system would also transition to virtual learning.<sup>16</sup> One week later, the Centers for Disease Control declared NYC a new epicenter of the pandemic,<sup>17</sup> and it became clear that temporary school closures would extend until the end of the school year.

By the time the city had “flattened the curve” of the Covid transmission trend in late May, parents were wrestling with the realities of sustaining at-home learning for the long term. Small learning communities like microschools and learning pods emerged as a sensible way to balance the risk of exposure to the virus with the need for child supervision, socialization, and learning.

Data on the growth of microschools and learning pods during the pandemic are just as limited as data before the pandemic. But media accounts suggest widespread interest. According to the *Wall Street Journal*, “companies that provide learning pods and tutoring services say they have had an increase in inquiries from parents looking for some kind of in-person or individualized instruction.”<sup>18</sup> SchoolHouse, a company that matches parents to microschools, is an example. Based in NYC, it serendipitously launched in early 2020. Amid the pandemic, it hit its five-year growth target in five months.<sup>19</sup> As of August 2021, SchoolHouse reported serving 14,000 families across the country, including more than 3,000 in NYC.<sup>20</sup>

Meanwhile, several small private schools adopted learning pods as a strategy for supporting students and families through the pandemic. For example, the Portfolio School serves about 80 students in Tribeca; in summer 2020, it collaborated with two other private schools to launch learning pods that would send teachers to parents’ homes to educate a maximum of nine children.<sup>21</sup>

Many families that participated in these microschools or learning pods did so at significant personal expense. The cost of a semester at SchoolHouse, for instance, is \$8,340 for its “school enrichment” model of just two days per week. The “full school replacement” model is five days a week and costs \$11,610.<sup>22</sup> The Portfolio School learning pods were slightly more expensive, at approximately \$13,000 per semester.<sup>23</sup>

Microschools and learning pods garnered criticism from leaders in education and the media for being inequitable. In the pages of the *New York Times* and the *Washington Post*, learning pods were branded as “the latest in school segregation” and “opportunity hoarding by affluent whites.”<sup>24</sup> But despite this narrative—or perhaps in response to it—many actors sought to expand access to students most in need. Nonprofits, philanthropies, and public schools in NYC also sought to form microschools and learning pods to meet the needs of middle- and low-income families.

In August 2020, the Take A Bow Performing Arts Center announced that it was “pivoting its operations ... to support learning pods for local students enrolled in the New York City Department of Education’s hybrid program or fully remote.” The cost of the program was \$75 per day or \$250 per week.<sup>25</sup> Similarly, with philanthropic support from AT&T and Warner media, the YMCA of Greater New York provided free “in-person support for children of working families, including support for remote learning and enrichment activities such as project-based learning and other educational activities.”<sup>26</sup> Rising Stars Youth Foundation also hosted supplemental learning pods at no cost to parents.<sup>27</sup>

in NYC began to provide pod-like learning supports for students as well. Charter schools had closed in the spring of 2020, alongside private and district schools, but several reopened their buildings to provide in-person support for a small number of students. Ascend Public Charter Schools in Brooklyn “transformed some of their Brownsville classrooms into learning pods—making space on campus for small groups of students to attend virtual school with the help of a learning proctor or ‘pod leader.’” Some of Ascend’s pod leaders were teachers who had volunteered; others were paraprofessionals or even food-service workers. Staff recruited students to participate in pods, starting with those who were not showing up for online schooling or completing their assignments.<sup>28</sup> Zeta Charter Schools in the Bronx invited about 20% of its student body to join learning pods under a similar arrangement.<sup>29</sup>

There is evidence of efforts to create these small learning communities in district schools as well. In Community School District 2 (which serves midtown Manhattan), for example, “[a] group of parents serving on local school boards ... partnered with local teaching programs to connect small pods of higher-needs learners in local elementary schools with student-teachers needing experience.”<sup>30</sup>

Beyond these efforts, mostly identified via media reports, a large proportion of microschools and learning pods in NYC during the 2020–21 school year were informal arrangements among friends, family, and neighbors. Nationally, 83% of parents participating in a pod indicated that the pod was operated by a parent or group of parents—not an outside organization or provider.<sup>31</sup> These informal pods increased alongside the number of registered homeschoolers in NYC, which grew 31% between April and October 2020.<sup>32</sup>

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## Policy and an Uncertain Future

The future of microschools and learning pods in New York City is difficult to predict; already, interest in pods is waning. The Portfolio School has suspended its pod offering;<sup>33</sup> Swing Education, a company that helps schools identify substitute teachers and was facilitating learning pods last year, has stopped doing so.<sup>34</sup> Nationally, the share of families participating in a pod declined from 31% to 12% in October 2021, according to the EdChoice and Morning Consult tracking poll.<sup>35</sup>

On the other hand, among families participating in a pod, the percentage that are using pods as a substitute, rather than a supplement, for regular schooling has increased, from 15% to 21%—suggesting that some core population of families may stick with microschools and learning pods as a permanent, full-time solution.<sup>36</sup>

Whether families in NYC choose microschools and learning pods as their core school for the long term will depend on how they assess these new models against what traditional schools offer and address the learning gap created by the pandemic. Indeed, Tyton Partners reports that about 70% of parents “believe learning pods and microschools are better than or equivalent to their child’s previous school” when it comes to nonacademic enrichment, social and emotional learning, and economics and logistics; only 56% of parents believe the same for academics.<sup>37</sup>

The continuity and longevity of microschools and learning pods will also depend on whether they are recognized in New York’s policy environment as more than an emergency, temporary, informal measure. Unfortunately, New York has a long way to go in this regard.

### **Access to public resources**

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The price tags for small learning communities like microschools and learning pods are out of reach for most families. Data collected before the pandemic indicate that microschools can have tuition rates as low as those charged by some parochial schools (\$5,000 per year) or as high as those charged by elite private schools: \$35,000 per year or higher.<sup>38</sup> However, even the most modest tuition fees are higher than what many families can afford on their own. It is easy to understand why equitable access to microschools and learning became such an acute concern during the pandemic.<sup>39</sup>

Ensuring equitable access to microschools and learning pods will require public resources. The NYC Department of Education could dedicate public resources to develop microschools or learning pod models within its current system but examples are hard to come by. Harvey Milk

High School, a small school originally designed in the 1980s to provide a supportive environment for gay and lesbian youth is perhaps the only example of a microschool within the district system.<sup>40</sup> Microschools and learning pods could launch as charter schools in NYC, as some have done.<sup>41</sup> Before the pandemic, however, most microschoools and learning pods existed in the private sector, where they have greater autonomy and flexibility,<sup>42</sup> and it is likely that they will continue to do so.

To afford microschooling offered by the private sector, middle- and low-income families in NYC would need a voucher or education savings account (ESA) program, offered by all but 16 states—New York among the exceptions. The nationwide average per-pupil voucher and ESA funding levels (\$7,299 and \$9,329, respectively)<sup>43</sup> could help NYC families access microschoools and learning pods on the lower end of the tuition distribution; NYC’s per-pupil expenditure of \$29,448<sup>44</sup> approaches the cost of pricier microschoools.

### **Private school regulation**

But helping families afford microschoools and learning pods is only the second half of the battle. First, a healthy and dynamic supply of these options requires commitment from the state. Unfortunately, the policy conditions in NYS are particularly unwelcoming to new models of schooling.

Private schools are subject to a plethora of state regulations, which can inhibit the creation of new schools. A nascent private school must complete a 21-item checklist to obtain a provisional three-year charter for incorporation.<sup>45</sup> In addition to standard items such as providing an intended address, grades served, and anticipated enrollment, as well as sensible protections for student health and safety (such as a certificate of occupancy), the checklist includes many other onerous items.

A private school in New York State (NYS) must provide a description of its curriculum, a list of staff members and their qualifications, a budget, a copy of the school’s tuition schedule, admissions policies, calendar, schedule, transportation plans and nutrition program. The private school must also include assurances from its local public school district that its “instruction is educationally equivalent to that offered by the local public schools.”<sup>46</sup>

The regulations go on to limit the use of non-English textbooks three to six years for students with limited English proficiency and require instruction in kindergarten and prekindergarten to align “with the state learning standards that provide continuity to the instruction of early elementary grades and through grade 12.”<sup>47</sup>

Other state regulations for private schools have less to do with teaching and learning but nonetheless require time and money to comply with. New York requires private schools to provide education in fire and arson prevention; drug and tobacco abuse; patriotism, citizenship, and human rights issues; and highway safety and traffic regulations. Regulations also govern record-keeping (e.g., attendance records), the use of protective headgear during baseball games, and parental notification for the use of pesticides.<sup>48</sup>

These regulations for private schools are well intentioned; children playing baseball *should* wear helmets. But the mountain of regulations, associated reporting requirements, and the risk and consequences of noncompliance create an environment that is stifling for private schools. Given these burdens, microschoools and learning pods with innovative models and limited overhead to sustain the costs of compliance face significant barriers to entry.

Consider that microschoools and learning pods often operate in facilities not built to be schools. If a microschool or pod operates in a storefront next to a row of shops and restaurants, must it ask its retail neighbors within 200 feet to relinquish their liquor licenses? Would a microschool

or learning pod need to employ a college counselor, as prescribed in the regulations? Over the past year, in particular, many microschools and pods have held classes outside. Would they nonetheless be required to conduct monthly fire drills or seek public spaces only where they can ascertain the absence of pesticides?

New York regulations limit the ability of private schools to offer the diversity of choices that compel many parents to seek options outside the district system and go beyond what many other states require, including not only conservative states like Idaho but also liberal states like Massachusetts.<sup>49</sup>

### Recent Developments in Enforcement

Regulations often go unenforced, but the potential of enforcement can be just as stultifying for social entrepreneurs. New York State's requirement that private schools provide a "substantially equivalent" education to the traditional public school system creates a potentially costly barrier for new entrants into the education marketplace.

The interpretation of "equivalent" has shifted over the years and has rarely been tested. One recent report noted: "Previous Education Department guidelines suggested a role for the local school district to investigate compliance with the substantially equivalent provision only if 'a serious concern' arises.... Accordingly, superintendents of district schools ... [have] administered the law in an informal, responsive fashion."<sup>50</sup>

But the provision has periodically resurfaced. In 2015, the Young Advocates for Fair Education (YAFFED) alleged that 39 Orthodox Jewish schools did not meet basic educational standards. A 2018 budget amendment sought to invalidate the claim by creating new flexibility for some religious schools. YAFFED challenged the amendment in court but ultimately lost for lack of standing.

The state education commissioner subsequently issued new guidance for private schools and took steps toward enforcement of the substantial equivalency provision, posting "two job positions devoted to enforcing the substantial-equivalency law: an executive director and a senior operations director."<sup>51</sup>

This time, the broader private school community's shared concerns of state overreach led the New York Association of Independent Schools to file suit against the state's education commissioner and the New York State Education Department (NYSED), and won on the grounds that the guidelines were "not implemented in compliance with SAPA [State Administrative Procedure Act]."<sup>52</sup>

NYSED is currently in the process of passing the regulations through prescribed channels.<sup>53</sup> The proposed regulations include requirements and instructions for how local boards of education should inspect private schools within their boundaries and make recommendations to the state commissioner of education about their compliance with the substantial equivalency standard. And for private schools that raise concerns about substantial equivalency, the regulations lay out how school boards should "work collaboratively with the [private] school to develop a clear plan and timeline, including benchmarks and targets, for attaining substantial equivalency."<sup>54</sup> The proposed regulations are under revision, after a period of public input.

The battle over the interpretation and enforcement of the substantial equivalency provision in state regulations is an example of the risks and costs of operating in a constrained policy environment. Whether and how these regulations are adopted could have significant effects on current and future private schools operating in New York City.

### Homeschool regulation

An entrepreneurially minded individual might decide that rather than operate a private school under these regulations, it would be preferable to organize homeschooled students and hire a tutor to support their instruction in a learning pod. Because homeschools typically operate free of states' private-school rules, making use of a state's homeschooling policies can be a promising option in certain states.

However, NYSED would classify such an arrangement as a private school:

Parents providing home instruction to their children may arrange to have their children instructed in a group situation for particular subjects but not for a majority of the home instruction program. Where groups of parents organize to provide group instruction by a tutor for a majority of the instructional program, they are operating a nonpublic school and are no longer providing home instruction.<sup>55</sup>

A parent or a group of parents wanting to form a microschool or learning pod via homeschooling, therefore, must either provide for instruction *without* hiring a teacher or be scrupulously careful to hire a teacher for less than half of the instructional program.

Even then, homeschooling in New York comes with significant requirements. Parents who wish to homeschool their child must submit an "Individualized Home Instruction Plan." The plan must include:

[A] list of the syllabi, curriculum materials, textbooks or plan of instruction to be used in each of the required subjects; the dates for submission to the school district of the parents' quarterly reports; the names of the individuals providing instruction; and a statement that the child will be meeting the compulsory educational requirements of Education Law ... through full-time study at a degree-granting institution.<sup>56</sup>

To stay in compliance, parents must ensure that courses cover required subjects and that instruction takes place over the "substantial equivalent" of 180 days per year. Instructional time must be documented via quarterly reports, including a description of the material covered, a narrative of the child's progress, and an explanation if progress is significantly off-target from what the family laid out in the initial plan. Students who are homeschooled must take a nationally norm-referenced assessment, but students in some grade levels can instead submit a narrative report written by a teacher, panel, or other person identified by the parent and consented to by the local district superintendent. If the "alternative evaluation method" does not comply with state requirements, the home instruction program is placed on probation and the parent must submit a remediation plan.<sup>57</sup>

Failure to provide the necessary paperwork—or the failure of the district office to process or approve that paperwork—can and has resulted in reporting to the Office of Child and Family Services for truancy or neglect.<sup>58</sup> At least one such case has made it to the New York State Supreme Court for adjudication.<sup>59</sup>



As with private school regulations, some of the most restrictive policies for homeschooling in the country are in New York State.<sup>60</sup> And while the regulations understandably intend to prevent bad actors or unprepared parents from neglecting their children's education, they make innovation harder. The flexibility, spontaneity, and small-learning environments that many parents value—especially during the ongoing pandemic—can be thwarted by such rules.

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## Conclusion

The potential for microschools and learning pods to flourish in New York City is limited by a highly regulated homeschool and private school environment and the absence of a private school choice program. For those families eager to return to “normal,” saying good-bye to their microschool or learning pod may signal the welcome end to the Covid-19 era. But for those who continue to want these small learning communities—as well as for those who would like to try them—significant state-level policy reform must be a priority in the months and years ahead.

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## Endnotes

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