

ARTIFICIAL INTELLIGENCE AND EDUCATION

Regulating the use of Artificial Intelligence systems in education

INTRODUCTION

The use of Artificial Intelligence (AI) systems in education is rapidly growing, with tools ranging from adaptive learning platforms to generative AI applications like ChatGPT reshaping classrooms worldwide. While these technologies offer potential benefits such as personalised learning and administrative efficiency, they also pose significant risks—particularly to children's rights, data privacy, educational equity, and democratic values.

The current regulatory landscape does not adequately address the unique vulnerabilities of children or the specific challenges of educational

settings. Most AI systems used in education are untested at scale, operate as opaque “black boxes,” and are increasingly embedded into digital infrastructures without proper oversight.

This policy brief presents the key takeaways from the *Preparatory study on the development of a legal instrument*. It evaluates different policy options and concludes that a binding, international legal framework offers the most effective means to ensure that AI supports rather than undermines the core goals of education: equity, integrity, and the full development of the learner.



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PROBLEM STATEMENT

AI systems are being adopted in schools and universities at unprecedented rates, often without robust safeguards or transparent evaluation. These technologies include adaptive learning systems, predictive analytics, automated proctoring tools, and generative AI content creators. While marketed as enhancing learning outcomes, they raise several pressing concerns:

- 01 Lack of independent evidence:** There is no large-scale, robust, and independent evaluation of the safety, efficacy, or long-term impact of AI in educational settings. Tools are often introduced based on anecdotal claims or commercial promotion rather than sound research.

02 Erosion of child rights: Children are especially vulnerable due to their developmental immaturity and lack of agency. Many AI systems are not designed with children’s data, needs, or rights in mind and may unintentionally cause psychological, cognitive, or social harm.

03 Transparency and accountability: AI systems used in schools often function without transparency, making it difficult for educators, parents, or even policymakers to understand their decision-making processes or mitigate risks.
- 04 Commercial influence and academic integrity:** Commercial interests frequently dictate the design and deployment of AI tools, which can result in misaligned priorities, including invasive data practices, over-reliance on automation, and undermining of academic honesty.

05 Digital divide: The use of AI in education can exacerbate inequities, especially for students with disabilities, those from disadvantaged socio-economic backgrounds, and speakers of minority languages. Costs, infrastructure demands, and language limitations often exclude marginalised groups.

In short, the educational use of AI remains largely unregulated and ill-suited to protect learners, particularly in compulsory education systems where students cannot meaningfully opt out.

POLICY OPTIONS

Option 01 — Voluntary guidelines and industry self-regulation

Many countries and institutions currently rely on non-binding frameworks or self-regulatory practices by technology companies. This approach assumes that the market and industry ethics will ensure safe and beneficial use.	ADVANTAGES	DRAWBACKS	RISKS
	Encourages innovation; flexible and fast to implement.	Lacks enforceability; does not guarantee child-centred design or privacy protection.	Minimal accountability, potential for exploitation, and ineffective oversight.

Option 02 — National-level legislation and sectoral policies

Some nations have begun to develop or revise education or data protection laws to address AI risks in their jurisdictions. These efforts vary significantly in scope and depth.	ADVANTAGES	DRAWBACKS	RISKS
	Context-specific and aligned with national educational goals.	Legal fragmentation; cross-border data use and EdTech tools fall outside national control.	Uneven protection across countries; duplication of effort; regulatory arbitrage by companies.

Option 03 — National-level legislation and sectoral policies

The proposed approach by the Council of Europe involves developing a legally binding instrument specific to the use of AI in education, grounded in human rights and child protection principles.	ADVANTAGES	DRAWBACKS	RISKS
	Harmonises regulation across member states; prioritises child rights and democratic education; facilitates cross-border consistency.	Requires time and multilateral consensus; implementation may vary in speed across jurisdictions.	Political resistance in some regions; challenges aligning educational, technological, and legal standards.

KEY ISSUES FOR CONSIDERATION INCLUDE



Transparency and accountability

AI systems must operate with transparency, ensuring their decisions can be explained and audited, particularly when impacting minors.



Protection of rights

There must be a focus on safeguarding the rights of children, including consent, privacy, and intellectual development.



Procurement standards

Guidelines should be in place to ensure the use of child-safe AI technologies in educational settings.



Academic integrity and fairness

AI systems should be designed to support academic integrity and promote fair, unbiased assessments.



Pedagogical integrity

Efforts must be made to prevent AI from embedding harmful pedagogies or undermining teacher autonomy.

RECOMMENDED POLICY OPTION

A legally binding international instrument developed under the Council of Europe is the most effective approach to regulating AI systems in education. This framework would

- 01 Prioritise human rights:** Ensure AI applications uphold children's rights, including privacy, agency, freedom of thought, and protection from harm, as outlined in the UN Convention on the Rights of the Child and the European Convention on Human Rights.
- 02 Mandate transparency and oversight:** Require AI developers and educational institutions to disclose how AI systems work, including their data sources, algorithms, and decision-making processes. Independent audits would be integral.
- 03 Strengthen procurement and accountability:** Establish ethical procurement standards and clear lines of responsibility for harms caused by AI misuse. Institutions must be held accountable for ensuring that educational tools are both effective and safe.
- 04 Protect democratic participation and educational aims:** Safeguard education's role in promoting democratic engagement, critical thinking, and student autonomy. Prevent the automation of pedagogy in ways that reduce human agency or embed harmful biases.
- 05 Support inclusive and equitable education:** Reduce digital divides by ensuring AI systems are accessible, linguistically and culturally inclusive, and adapted to the needs of learners with disabilities or from underserved backgrounds.
- 06 Create shared governance mechanisms:** Engage governments, educational institutions, civil society, technology companies, and students in shaping and monitoring the use of AI in education. This multi-stakeholder model would reflect the complexity of the AI ecosystem.

EXAMPLES FOR THE STUDY



An AI system used for school placements unintentionally reinforced social segregation.



Automated teacher assignment tools created widespread mismatches and dissatisfaction.



An AI-based grading system, used during COVID-19, unfairly downgraded student results.



Given the high stakes involved and the rapid pace of technological adoption, inaction would leave education systems vulnerable to exploitation and children exposed to harm. The development of a Council of Europe legal instrument is a proactive and protective measure to preserve the integrity of education in the digital age.



CONCLUSION

Artificial Intelligence presents one of the most transformative forces in education today, but without a principled, coordinated regulatory response, it risks undermining the very values education is meant to uphold.

The distinct needs of children, the compulsory nature of school, and the central role of education in democratic societies necessitate special legal consideration. A comprehensive legal framework, rooted in human rights and child-centred design, is not a barrier to innovation—it is a prerequisite for sustainable, equitable, and effective digital transformation in education. The Council of Europe is uniquely positioned to lead this effort. Policymakers across Europe and beyond must act swiftly to ensure that AI in education enhances learning while safeguarding rights, dignity, and democratic ideals.

FURTHER READING & RESOURCES



➤ COUNCIL OF EUROPE • 2024

Regulating the use of Artificial Intelligence systems in education – Preparatory study on the development of a legal instrument



➤ COUNCIL OF EUROPE • 2025

Feasibility study for a European Reference Framework for the evaluation of educational technologies – Short version



➤ COUNCIL OF EUROPE • 2024

2nd Working Conference «Regulating the use of AI systems in education» – Provisional report of the conference



➤ COUNCIL OF EUROPE • 2024

The state of artificial intelligence and education across Europe – Results of a survey of Council of Europe member states



➤ COUNCIL OF EUROPE • 2024

Regulating artificial intelligence in the education domain: a general approach
Ilkka Tuomi



➤ COUNCIL OF EUROPE • 2022

1st Working Conference «Artificial Intelligence and education: A critical view through the lens of human rights, democracy and the rule of law» – Conference highlights



➤ COUNCIL OF EUROPE • 2024

Towards a European review framework for AI EdTech systems
Beth Havinga

ARTIFICIAL INTELLIGENCE AND EDUCATION PROGRAMME

The Council of Europe is working to ensure that the use of Artificial Intelligence (AI) in education aligns with human rights, democracy, and the rule of law. Through its AI and Education (AI&ED) programme, the Council of Europe is developing legal and policy instruments, guidelines and tools and resources to promote transparent, inclusive, and responsible AI use in education.

COUNCIL OF EUROPE EDUCATION STRATEGY 2024-2030 "LEARNERS FIRST"



➤ LEARNERS FIRST

Council of Europe Education Strategy 2024-2030



➤ www.coe.int/education

➤ Artificial Intelligence and Education