



## **Districts of Innovation**

### **What is a “District of Innovation”?**

A District of Innovation is a concept passed by the 84th Legislative Session in House Bill 1842, effectively immediately, that gives traditional independent school districts most of the flexibilities available to Texas’ open enrollment charter schools. To access these flexibilities, a school district must adopt an innovation plan, as set forth in Texas Education Code chapter 12A.

### **What school districts are eligible to be Districts of Innovation?**

To be eligible for designation as a District of Innovation, a school district’s most recent academic performance rating must be at least acceptable.

### **Why would a school district choose to pursue this option?**

A local school district may want to pursue specific innovations in curriculum, instruction, governance, parent or community involvement, school calendar, budgeting, or other ideas. An innovation plan also allows a school district to gain exemption from many Texas Education Code requirements.

Essentially, innovation plans will be about local control. Each district will pursue designation as a District of Innovation for different reasons, and no two plans may look the same. Community members should note that each innovation plan will be unique to the local school district. The experiences of other school districts may be informative, but may not directly relate to the purpose or progress of a plan in another location.

### **What legal requirements could a school district avoid by becoming a District of Innovation?**

A District of Innovation may adopt a plan that includes exemptions from most of the same state laws that are not applicable to open enrollment school districts. These laws could include:

- Site-based decision making processes (to the extent required by state law)
- Uniform school start date
- Minimum minutes of instruction
- Class size ratio
- The 90 percent attendance rule (but compulsory attendance still applies)

- Student discipline provisions (with some key exceptions, like the requirement to have a code of conduct and restrictions on restraint and seclusion)
- Teacher certification (except as required by federal law)
- Teacher contracts
- Teacher benefits, including state minimum salary schedule, duty-free lunch, and planning periods
- Teacher appraisal system

TEA has rulemaking authority regarding Districts of Innovation. The agency anticipates publishing draft rules in February 2016, and these rules will include as an appendix a list of legal provisions from which a District of Innovation may seek exemption. Districts that are interested in pursuing an innovation plan are encouraged to begin work on formulating ideas and perhaps creating a committee, but before adopting a final plan, districts will likely want to review the agency's rules.

#### **What legal requirements will continue to apply to all school districts, including Districts of Innovation?**

An innovation plan cannot seek exemption from a state or federal requirement applicable to open enrollment charter schools, certain parts of Chapter 11, state requirements for curriculum and graduation, and academic and financial accountability. Laws from which a District of Innovation cannot be exempt include statutes regarding:

- Elected boards of trustees
- Powers and duties of school boards, superintendents, and principals
- PEIMS
- Criminal history record checks and educator misconduct reporting
- Curriculum and graduation requirements
- Bilingual education
- Special education
- Prekindergarten
- Academic accountability, including student assessments
- Financial accountability and related reporting
- Open meetings
- Public records
- Public purchasing under the Texas Local Government Code and conflicts of interest
- Nepotism

- Other state and federal laws outside of the Texas Education Code

### **What impact could innovations have on school funding?**

School district funding will remain substantially the same for Districts of Innovation. Unlike innovation zones in other states, this statutory option in Texas was not created to provide additional grant funding to participating districts. Depending on a district's innovation plan, the district may have some flexibility in the use of compensatory education funds. Districts are encouraged to think about how their flexibility choices, especially with respect to the school calendar and attendance, could impact funding calculations.

### **What impact could innovations have on school personnel?**

Possibly none. But depending on the choices a district includes in its local innovation plan, an innovation plan could provide for substantial changes to key employment policies related to employment contracts and benefits of employment. Districts of Innovation transitioning to plans that include changes to employment practices will need to work with their school attorneys to honor existing contracts.

### **Can a District of Innovation be created to respond to needs or opportunities at a particular subset of campuses?**

Chapter 12A does not specifically permit or prohibit adopting an innovation plan that proposes innovations at only a subset of district campuses. In other states, however, innovation zones have started at a small number of campuses (like a single feeder pattern) before expanding to other campuses. TEA rules may address this question. In the alternative, a district may consider the option of a campus conversion charter for a single campus or group of campuses.

### **What process is required to adopt an innovation plan?**

The process is initiated by either:

- a resolution of the board of trustees; or
- a petition signed by a majority of the members of the district-level advisory committee.

Promptly after the resolution or petition, the board must hold a public hearing to consider whether the district should develop an innovation plan. At the conclusion of the hearing or soon thereafter, the board may:

- decline to pursue the designation as a District of Innovation; or
- appoint a committee to develop a plan.

The membership of the committee is not specified in statute, but as a practical matter, the members of the committee must be able to write a comprehensive plan with the elements specified below, clearly articulate the purpose of the plan, and persuade the school community of the value of the plan.

The plan must:

- provide for a comprehensive educational program for the district which may include innovations in curriculum, instructional methods, community and parent involvement, campus governance, modifications to the school day or year, budgeting and sustainable funding, local accountability, and other innovations prescribed by the board; and
- identify the Texas Education Code provisions from which the District of Innovation should be exempted, within the parameters described above.

The board cannot approve the plan until the final plan has been posted online for 30 days, the commissioner has been notified, the district-level advisory committee (DAC) has held a public meeting to consider the final plan, and the DAC has approved the plan by a majority vote. The public hearing and vote of the DAC may occur at the same meeting.

The board of trustees may then vote to approve the plan. The vote must pass by a two-thirds majority vote. The district may then function in accordance with the plan and be exempt from the specified Education Code mandates.

The commissioner of education does not approve districts' innovation plans, per se, but he does have rulemaking authority regarding districts of innovation. The commissioner will also have reporting obligations to the Legislature about the use of this statutory option and what laws districts have selected for exemption.

Districts are encouraged to use an abundance of caution throughout the adoption process to adhere to Chapter 12A, TEA rules, and state laws regarding open meetings and open records. Questions will inevitably arise about the application of the Texas Open Meetings Act to committee meetings and meetings of the DAC. School districts should consult their school attorneys regularly and keep the process as transparent as possible to avoid legal challenges that could delay the implementation of an innovation plan.

#### **How long does an innovation plan stay in effect?**

The plan may have a term of up to five years, and it may be amended, rescinded, or renewed by a majority vote of the DAC or a comparable committee if the District of Innovation is exempt from having a DAC, and the board of trustees in the same manner required for initial adoption. Districts may want to review the plan more frequently, perhaps on the biennium to consider new legislation.

If a District of Innovation receives unacceptable academic and/or financial performance ratings for two consecutive years, the commissioner may terminate the innovation plan or require the district to amend its plan. If a District of Innovation receives unacceptable academic and/or financial performance ratings for three consecutive years, the commissioner must terminate the innovation plan.

**What impact could designation as a District of Innovation have on district policy?**

A District of Innovation will likely need to make changes to LOCAL policies and may need adjustments to LEGAL policies to reflect that some legal provisions may be affected by the district's innovation plan. After TEA publishes rules and the list of legal provisions from which a District of Innovation may seek an exemption, TASB Policy Service will be able to help each District of Innovation evaluate necessary changes to the district's policy manual, which could vary greatly from district to district, depending on the extent of the district-wide exemptions included in the innovation plan.

For more information on this and other school law topics,  
visit TASB School Law eSource online at [schoolawesource.tasb.org](http://schoolawesource.tasb.org).

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