Texas Association of School Boards

Districts of Innovation

"For years, Texas school board members and administrators have complained about the ever-increasing number of state mandates and prescriptive laws and bemoaned the continual erosion of local control. Now there is a realistic process for districts to do something about this. Take advantage. Investigate the possibilities and potential of becoming a district of innovation".

James B. Crow
Executive Director, TASB

What is a District of Innovation?

The District of Innovation concept, passed by the 84th Legislative Session in House Bill 1842, gives traditional independent school districts most of the flexibilities available to Texas' open-enrollment charter schools.

Should my district become a District of Innovation?

Potential benefits of becoming a District of Innovation include:

- **Local control**: Districts decide which flexibilities best suit their local needs.
- **Customization**: Districts can create an innovation plan for a level of school (e.g., only high schools), grade level, or a single campus.
- **Autonomy**: Districts must submit a district of innovation plan to the commissioner of education, but approval is not required.
- **Flexibility**: Districts will have the flexibility to implement practices similar to charter schools, including exemptions from mandates such as:

  - School start date
  - 90% attendance rule
  - Class-size ratios
  - Site-based decision-making processes
  - Certain student discipline provisions
  - Use of planning and preparation periods

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Districts of Innovation

What is a "District of Innovation"?

The District of Innovation concept was passed into law by the 84th Legislative Session in House Bill 1842, which created Texas Education Code chapter 12A.

The law allows traditional independent school districts to access 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 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 charter schools. 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

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- 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

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

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The Texas Education Agency (TEA) has proposed rules, described below, that include a detailed list of the statutes from which a District of Innovation cannot claim an exemption.

Will innovation plans have to be approved by the Texas Education Agency?

No, but TEA has rulemaking authority regarding the implementation of Districts of Innovation. Proposed rules were posted online on April 1, 2016, and TEA scheduled a public hearing regarding the proposed rules on April 25, 2016. As described in more detail in the proposed rules, a district that has proposed an innovation plan is required to notify TEA, and TEA is required to maintain information about the statutory exemptions adopted by districts in their innovation plans. TEA must then report to the Legislature about school districts' statutory exemptions.

Although the rules are not yet final, many districts are working with school attorneys to follow the required statutory procedure to establish innovation plans. The proposed rules include a Figure, which is an itemized list of possible exemptions. The proposed rules state clearly that the Figure is not intended to be a complete list of the possible exemptions. Rather, the Figure is provided for ease of reporting, and it is neither a guarantee nor a limitation on the possible statutory exemptions. Around the state, districts are considering innovation plans that either: include exemptions from provisions not listed on the Figure; or describe statutory exceptions more narrowly than the items are listed in the Figure. Any school district considering the adoption of an innovation plan should work closely with its school attorney as it drafts the list of exemptions in its innovation plan.

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.

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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. In the alternative, a district may consider the option of a campus conversion charter for a single campus or group of campuses. Tex. Educ. Code § 12.0522.

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. Under TEA's proposed rules, a board must hold the public hearing as soon as possible, but no later than the next scheduled board of trustees meeting, to consider whether the district should develop a local innovation plan. The board's resolution may outline the parameters around which the innovation committee may develop the 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.

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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 Texas Education Code mandates.

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.

TEA's proposed rules indicate that a district may have only one innovation plan at a time. A district innovation plan may be amended, rescinded, or renewed. An amendment to an approved plan does not change the date of the term of designation as a District of Innovation, and exemptions that were already formally approved need not be reviewed. The proposed rules limit renewal of a plan to the period within six months of the expiration of the plan's term. During renewal, all sections of the plan and exemptions must be reviewed, and the original statutory adoption process must be followed.

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. Upon termination of an innovation plan, a district must return to compliance with all specified areas of the Texas Education Code by a date to be determined by the commissioner.

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

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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 schoollawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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Process to Become a District of Innovation
Texas Education Code (TEC) Chapter 12A

Current Innovation Districts

The following districts have notified the TEA that they have adopted a local innovation plan and are designated as Innovation District.

Big Spring ISD
Bronte ISD
Canton ISD
Childress ISD
Dripping Springs ISD
El Paso ISD
Era ISD
Friona ISD
Godley ISD
Grand Prairie ISD
Gruver ISD
Harlingen CISD
Huffman ISD
Humble ISD
Kaufman ISD
Keene ISD
Kemp ISD
Los Fresnos CISD
Martin's Mill ISD
Lytle ISD
Mabank ISD
Manor ISD
Mansfield ISD
Mineola ISD
Nazareth ISD
Northside ISD
Palmer ISD
Point Isabel ISD
Red Oak ISD
Roby CISD
Roscoe Collegiate ISD
San Antonio ISD
Slidell ISD
Spring Branch ISD
Terrell ISD
Victoria ISD