

Date: March 14, 2016

Division: Strategic Initiatives/Community

Subject: District of Innovation Resolution

Background Information:

- School districts in Texas may now seek designation as a District of Innovation (TEC 12A). Such a designation allows the district to access exemption from certain requirements of state law. Essentially, innovation plans are about local control.
- A District of Innovation can be exempt from certain requirements imposed by state law. These exemptions MAY include: uniform start date; minimum minutes of instruction; the 90% attendance rule; teacher contracts, benefits, and appraisals; campus decision-making restrictions; certain budgeting requirements; and some student discipline laws.
- A District of Innovation cannot seek exemption from the following (not a complete list): elected boards of trustees; powers and duties of school boards, superintendents, and principals; PEIMS; curriculum and graduation requirements; academic accountability and student assessments; financial accountability and related reporting; open meetings; and public purchasing laws.
- School districts are eligible for designation as a District of Innovation if the district's most recent academic performance rating was at least acceptable.

Administrative Consideration:

- The process to adopt an innovation plan is initiated by either a resolution of the trustees or a petition signed by a majority of the members of the district-level advisory committee. A resolution for adoption is attached as an actionable item.
- Promptly after adoption of the resolution, the board must hold a hearing to consider whether the district should develop a local innovation plan for designation as a District of Innovation. At the conclusion of that hearing, or as soon as possible, thereafter, the board can either decline to pursue designation as a District of Innovation or appoint a committee to develop a local innovation plan that complies with the relevant state law.
- Once the committee develops a local innovation plan, it must be posted online for 30 days, sent to the commissioner, and a public hearing held by the District Leadership Team (and approve the plan by majority vote).
- The board may then vote on the final proposed innovation plan. Approval requires a two-thirds majority (at least 5-2 vote). The statute does not authorize the board to modify the final version of the proposed plan.
- Upon board approval, the district becomes a District of Innovation and may begin operating in accordance with the local innovation plan, exempt from the identified provisions of the Education Code.

- Currently, nothing in the law requires the Commissioner to approve a district's local innovation plan.
- The plan would be in effect for up to 5 years. However, revisions may be made to the plan by following the same public hearing and vote processes.

Strategic Design:

- Goal 7: Design an accountability system that transcends state/national mandates and reflects local values and expectations.

Recommendations:

- Adopt the resolution to initiate process of designation as a District of Innovation pursuant to Texas Education Code Chapter 12A.

Resolution

FOR LEWISVILLE INDEPENDENT SCHOOL DISTRICT TO INITIATE THE PROCESS OF
DESIGNATION AS A DISTRICT OF INNOVATION PURSUANT TO TEXAS EDUCATION CODE
CHAPTER 12A

I. Findings

The Lewisville Independent School District Board of Trustees is committed to the success of every child and recognizes that as culture, population, and society change with the passage of time, so too must educational pedagogy. The State of Texas has recently enacted new legislation to enable independent school districts to seek new avenues which are congruous with significant educational benefits for our students and are locally controlled and administered.

Chapter 12A of the Texas Education Code requires school districts seeking to be designated as a District of Innovation to initiate such consideration via a resolution adopted by the Board of Trustees and then to hold a public hearing for discussion to consider whether the school district should develop a local innovation plan. The Lewisville I.S.D. finds that passing such a resolution is in keeping with the Lewisville I.S.D. Board of Trustees' long-standing demands for the best and greatest educational benefits of its students and its practice of supporting innovation for the benefit of students.

II. Resolution

Based on the findings above, the Lewisville Independent School District Board of Trustees hereby resolves that it is appropriate, necessary, and beneficial to the educational experience of students and staff to initiate the process of exploring and considering designation of the Lewisville I.S.D. as a District of Innovation under Texas Education Code Chapter 12A.

PASSED and ADOPTED the 14th day of March 2016, by the Lewisville I.S.D. Board of Trustees.

By: _____

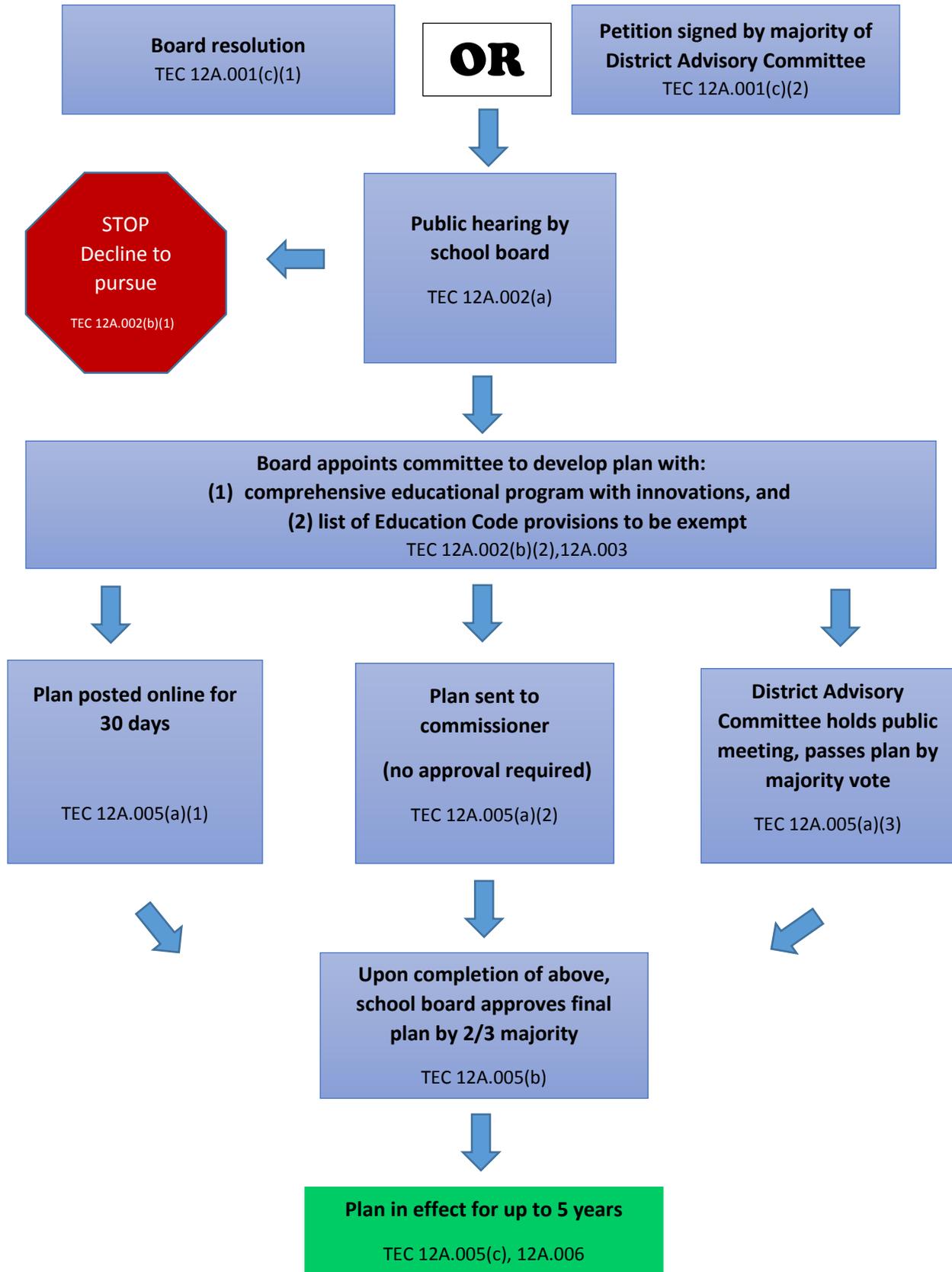
Trisha Sheffield, President

ATTEST:

By: _____

Kris Vaughn, Secretary

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





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, effective 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 Texas 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.

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.

Updated January 2016

DISTRICT OF
INNOVATION

A district is eligible for designation as a district of innovation if the district's most recent performance rating under Education Code 39.054 reflects at least acceptable performance.

Consideration of designation as a district of innovation may be initiated by a resolution adopted by the board or a petition signed by a majority of the members of the district-level committee [see BQA].

Education Code 12A.001

PUBLIC HEARING

Promptly after adopting a resolution or receiving a petition for consideration as a district of innovation, a board shall hold a public hearing to consider whether the district should develop a local innovation plan for the designation of the district as a district of innovation.

At the conclusion of the public hearing or as soon as possible after conclusion of the public hearing, the board may decline to pursue designation of the district as a district of innovation or appoint a committee to develop a local innovation plan.

Education Code 12A.002

LOCAL INNOVATION
PLAN

A local innovation plan must be developed for a district before the district may be designated as a district of innovation.

The local innovation plan must provide for a comprehensive educational program for the district, which program may include:

1. Innovative curriculum, instructional methods, and provisions regarding community participation, campus governance, and parental involvement;
2. Modifications to the school day or year [see EB, EC];
3. Provisions regarding the district budget and sustainable program funding;
4. Accountability and assessment measures that exceed the requirements of state and federal law; and
5. Any other innovations prescribed by the board of trustees.

The plan must also identify requirements imposed by the Education Code that inhibit the goals of the plan and from which the district should be exempted on adoption of the plan, subject to Education Code 12A.004. [See EXCEPTIONS, below]

The Commissioner shall maintain a list of provisions from which designated districts of innovation are exempt. The Commissioner

shall notify the legislature of each provision from which districts enrolling a majority of students in this state are exempt.

Education Code 12A.003, 12A.004(b)

EXCEPTIONS

A local innovation plan may not provide for the exemption of a district from the following:

1. Education Code Chapter 11, Subchapters A (Accreditation), C (Board of Trustees), D (Powers and Duties of Board), and E (Superintendents and Principals), except that a district may be exempt from Sections 11.1511(b)(5) (district- and campus-level planning), 11.1511(b)(14) (board's role in termination and nonrenewal of educator contracts), and 11.162 (school uniforms);
2. State curriculum and graduation requirements adopted under Education Code Chapter 28; and
3. Academic and financial accountability and sanctions under Education Code Chapter 39.

Education Code 12A.004(a)

ADOPTION OF LOCAL
INNOVATION PLAN

The board may not vote on adoption of a proposed local innovation plan unless:

1. The final version of the proposed plan has been available on the district's website for at least 30 days;
2. The board has notified the Commissioner of the board's intention to vote on adoption of the proposed plan; and
3. The district-level committee [see BQA] has held a public meeting to consider the final version of the proposed plan and has approved the plan by a majority vote of the committee members. The meeting may occur immediately before and on the same date as the meeting at which the board intends to vote on adoption of the proposed plan.

The board may adopt a proposed local innovation plan by an affirmative vote of two-thirds of the membership of the board.

On adoption of a local innovation plan, the district is designated as a district of innovation for the term specified in the plan and shall begin operation in accordance with the plan. In addition, the district is exempt from state requirements identified under Education Code 12A.003(b)(2). [See LOCAL INNOVATION PLAN, above]

Education Code 12A.005

INNOVATION DISTRICTS

AF
(LEGAL)

TERM	The term of a district's designation as a district of innovation may not exceed five years. <i>Education Code 12A.006</i>
AMENDMENT, RESCISSION, OR RENEWAL OF LOCAL INNOVATION PLAN	A local innovation plan may be amended, rescinded, or renewed if the action is approved by a vote of the district-level committee [see BQA] and the board in the same manner as required for initial adoption of a local innovation plan. <i>Education Code 12A.007</i>
TERMINATION BY COMMISSIONER DISCRETIONARY TERMINATION	<p>The Commissioner may terminate a district's designation as a district of innovation if the district receives for two consecutive school years:</p> <ol style="list-style-type: none"> 1. An unacceptable academic performance rating under Education Code 39.054; 2. An unacceptable financial accountability rating under Education Code 39.082; or 3. An unacceptable academic performance rating under Education Code 39.054 for one of the school years and an unacceptable financial accountability rating under Education Code 39.082 for the other school year. <p>Instead of terminating a district's designation, the Commissioner may permit the district to amend the local innovation plan to address concerns specified by the Commissioner.</p> <p><i>Education Code 12A.008(a)–(b)</i></p>
MANDATORY TERMINATION	<p>The Commissioner shall terminate a district's designation as a district of innovation if the district receives for three consecutive school years:</p> <ol style="list-style-type: none"> 1. An unacceptable academic performance rating under Education Code 39.054; 2. An unacceptable financial accountability rating under Education Code 39.082; or 3. Any combination of one or more unacceptable ratings Education Code 39.054 and one or more unacceptable ratings under Education Code 39.082. <p><i>Education Code 12A.008(c)</i></p>
NO APPEAL	The Commissioner's decision to terminate a district's designation as a district of innovation is final and may not be appealed. <i>Education Code 12A.008(d)</i>