

## Chapter 102. Educational Programs

### Subchapter JJ. Commissioner's Rules Concerning Innovation District

#### §102.1301. Definitions.

For purposes under this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

- (1) District-level committee--This term has the meaning assigned by the Texas Education Code (TEC), §11.251, or a comparable committee if the district is exempted (or has exempted itself) from this provision.
- (2) Innovation plan committee--A committee appointed by the board of trustees to develop the innovation plan in accordance with statutory requirements. The district-level committee, as described in paragraph (1), may also serve in this role.
- (3) Public hearing--An open meeting held by the board of trustees that allows members of the public to hear facts about the proposed plan and designation and provides the opportunity for the public to give opinions and comments on the proposed actions.
- (4) Public meeting--An open meeting held by the board of trustees that allows members of the public to hear facts about the proposed plan and designation.
- (5) Unacceptable academic performance rating--For the purposes of this chapter, the term "unacceptable academic" performance rating means a rating of Improvement Required or Unacceptable Performance or as otherwise indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System).
- (6) Unacceptable financial accountability rating--For the purposes of this chapter, the term "unacceptable financial" performance rating means a Financial Integrity Rating System of Texas (FIRST) rating of Substandard Achievement as indicated in the applicable year's financial accountability system manual adopted under §109.1001 of this title (relating to Financial Accountability Rating).

*Statutory Authority: The provisions of this §102.1301 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1301 adopted to be effective September 13, 2016, 41 TexReg 7089.*

#### §102.1303. Eligibility.

- (a) A district is eligible for designation as an innovation district if the district's final and most recent performance rating under Texas Education Code (TEC), §39.054, is at least acceptable performance, as indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System).
- (b) A board of trustees may not vote on the final approval of the innovation plan if the district is assigned either a final or preliminary rating below acceptable performance, as indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title. In the event the preliminary rating is changed, the board of trustees may then vote to become an innovation district.

*Statutory Authority: The provisions of this §102.1303 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1303 adopted to be effective September 13, 2016, 41 TexReg 7089; amended to be effective June 20, 2023, 48 TexReg 3225.*

#### §102.1305. Process Timeline.

- (a) If a resolution is adopted by the board of trustees or upon receipt of a petition signed by a majority of the members of the district-level committee, the board of trustees shall hold a public hearing as soon as

possible, but not later than 30 days, to consider if the district should develop a local innovation plan for the designation of the district as an innovation district.

- (b) At the conclusion of the public hearing, or within 30 days after conclusion of the public hearing, the board of trustees may:
  - (1) decline to pursue designation of the district as an innovation district; or
  - (2) appoint an innovation plan committee to develop a local innovation plan in accordance with the TEC, §12A.003.
- (c) The board of trustees may outline the parameters around which the innovation plan committee may develop the plan.
- (d) Prior to the designation as an innovation district, a local innovation plan must be developed for the school district and shall meet the plan requirements as outlined in the TEC, §12A.003, and described in this subchapter.
- (e) The plan must be clearly posted on the district's website for the term of the designation as an innovation district.

*Statutory Authority: The provisions of this §102.1305 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1305 adopted to be effective September 13, 2016, 41 TexReg 7089.*

**§102.1307. Adoption of Local Innovation Plan.**

- (a) The board of trustees 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 of trustees has notified the commissioner of education of the board's intention to vote on adoption of the proposed plan; and
  - (3) the district-level committee established under Texas Education Code (TEC), §11.251, 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. This public meeting may occur at any time, including up to or on the same date at which the board intends to vote on final adoption of the proposed plan.
- (b) A board of trustees may adopt a proposed local innovation plan by an affirmative vote of two-thirds of the membership of the board.
- (c) On adoption of a local innovation plan, the district:
  - (1) is designated as a district of innovation under this subchapter for the term specified in the plan but no longer than five calendar years, subject to TEC, §12A.006;
  - (2) shall begin operation in accordance with the plan; and
  - (3) is exempt from state requirements identified under TEC, §12A.003(b)(2).
- (d) The district shall notify the commissioner of approval of the plan along with a list of approved TEC exemptions by completing the agency form provided in the figure in this subsection.  
[Figure: 19 TAC §102.1307\(d\)](#)
- (e) A district's exemption described by subsection (c)(3) of this section includes any subsequent amendment or redesignation of an identified state requirement, unless the subsequent amendment or redesignation specifically applies to an innovation district.
- (f) The district shall ensure that a copy of the local innovation plan is posted on the district's website in accordance with TEC, §12A.0071, for the term of the designation as an innovation district.

- (g) Not later than the 15th day after the date on which the board of trustees finalizes a local innovation plan either through adoption, amendment, or renewal, the district shall provide a link to the local innovation plan as posted on the district's website to the Texas Education Agency for posting on the agency website.

*Statutory Authority: The provisions of this §102.1307 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1307 adopted to be effective September 13, 2016, 41 TexReg 7089; amended to be effective January 31, 2018, 43 TexReg 462; amended to be effective October 25, 2022, 47 TexReg 6982.*

### §102.1309. Prohibited Exemptions.

- (a) An innovation district may not be exempted from the following sections of the Texas Education Code (TEC) and the rules adopted thereunder:
- (1) a state or federal requirement, imposed by statute or rule, applicable to an open-enrollment charter school operating under TEC, Chapter 12, Subchapter D, including, but not limited to, the requirements listed in TEC, §12.104(b), and:
    - (A) TEC, Chapter 22, Subchapter B;
    - (B) TEC, Chapter 25, Subchapter A, §§25.001, 25.002, 25.0021, 25.0031, and 25.004;
    - (C) TEC, Chapter 28, §§28.002, 28.0021, 28.0023, 28.005, 28.0051, 28.006, 28.016, 28.0211, 28.0213, 28.0217, 28.025, 28.0254, 28.02541, 28.0255, 28.0258, 28.0259, and 28.026;
    - (D) TEC, Chapter 29, Subchapter G;
    - (E) TEC, Chapter 30, Subchapter A;
    - (F) TEC, §30.104;
    - (G) TEC, Chapter 34;
    - (H) TEC, Chapter 37, §§ 37.005, 37.006(l), 37.007(e), 37.011, 37.012, 37.013, and 37.020;
    - (I) TEC, Chapter 39; and
    - (J) TEC, Chapter 39A.
  - (2) TEC, Chapter 11, Subchapters A, C, D, and E, except that a district may be exempt from TEC, §11.1511(b)(5) and (14) and §11.162;
  - (3) TEC, Chapter 12, Subchapter C;
  - (4) TEC, Chapter 12A;
  - (5) TEC, Chapter 13;
  - (6) TEC, Chapter 44, §§44.0011, 44.002, 44.003, 44.004, 44.0041, 44.005, 44.0051, 44.006, 44.007, 44.0071, 44.008, 44.009, 44.011, 44.0312, 44.032, 44.051, 44.052, 44.053, and 44.054;
  - (7) TEC, Chapter 45, §§45.003, 45.0031, 45.005, 45.105, 45.106, 45.202, 45.203;
  - (8) TEC, Chapter 46;
  - (9) TEC, Chapter 48; and
  - (10) TEC, Chapter 49.
- (b) In addition to the prohibited exemptions specified in subsection (a) of this section, an innovation district may not be exempted from:
- (1) a requirement of a grant or other state program in which the district voluntarily participates;
  - (2) duties that the statute applies to the execution of that power if a district chooses to implement an authorized power that is optional under the terms of the statute;

- (3) a requirement of a grant or other state program authorized in the TEC that would otherwise entitle the district to participation in that program; and
- (4) requirements imposed by provisions outside the TEC, including requirements under Texas Government Code, Chapter 822.

*Statutory Authority: The provisions of this §102.1309 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1309 adopted to be effective September 13, 2016, 41 TexReg 7089; amended to be effective January 31, 2018, 43 TexReg 462; amended to be effective January 8, 2020, 45 TexReg 339; amended to be effective October 25, 2022, 47 TexReg 6982.*

#### **§102.1311. Term.**

The term of a district's designation as a district of innovation may not exceed five calendar years and is effective upon district approval and notification of the plan to the Texas Education Agency. A district may only have one innovation plan at any given time.

*Statutory Authority: The provisions of this §102.1311 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1311 adopted to be effective September 13, 2016, 41 TexReg 7089; amended to be effective June 20, 2023 (48 TexReg 3225).*

#### **§102.1313. Amendment, Rescission, or Renewal.**

- (a) A district innovation plan may be amended, rescinded, or renewed if the action is approved by a majority vote of the district-level committee established under Texas Education Code (TEC), §11.251, or a comparable committee if the district is exempt from that section, and a two-thirds majority vote of the board of trustees.
  - (1) Amendment. An amendment to an approved plan does not change the date of the term of designation as an innovation district. Exemptions that were already formally approved are not required to be reviewed.
  - (2) Rescission. A district must notify the Texas Education Agency within five business days of rescission and provide a date at which time it will be in compliance with all sections of the TEC, but no later than the start of the following school year.
  - (3) Renewal. During renewal, all sections of the plan and exemptions shall be reviewed and the district must follow all components outlined in §102.1307 of this title (relating to Adoption of Local Innovation Plan), except that a district is not required to notify the commissioner of education of the board's intention to vote on the adoption of the proposed plan under §102.1307(a)(2) of this title.
    - (A) A district must meet eligibility requirements under §102.1303 of this title (relating to Eligibility) in order to renew an innovation plan.
    - (B) In the event that a district fails to renew a plan prior to the expiration of its term, a district may renew the plan in the six months subsequent to the plan's date of expiration in order to maintain a continuous designation as a district of innovation.
      - (i) The term of a renewed plan, subject to §102.1311 of this title (relating to Term), may not begin prior to the date on which the board votes to adopt the renewed plan, unless the plan is adopted during the six months subsequent to the plan's date of expiration.
      - (ii) If a plan is renewed during the timeline described in this subparagraph, the renewed plan will have a term not to exceed five calendar years, beginning on the date of expiration of the prior term.
      - (iii) If a plan is renewed during the timeline described in this subparagraph and changes are made to the plan during the renewal process, those changes will be

in effect from the date of adoption of the renewed plan through the expiration date of the renewed plan, unless amended, rescinded, or terminated.

- (iv) If changes are made to the plan during the renewal process, the district shall mark the changes with the date of the vote to renew the plan in order to denote the earliest date those changes may take effect.
- (v) A district whose plan is not renewed during the timeline described in this subparagraph shall comply with all previously adopted exemptions immediately upon expiration of the plan and begin the adoption process over again in its entirety should the district wish to pursue designation as a district of innovation in the future.

- (b) The district shall notify the commissioner of any actions taken pursuant to subsection (a) of this section along with the associated TEC exemptions and local approval dates.

*Statutory Authority: The provisions of this §102.1313 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1313 adopted to be effective September 13, 2016, 41 TexReg 7089; amended to be effective June 20, 2023, 48 TexReg 3225.*

### §102.1315. Termination.

- (a) The commissioner of education may:
  - (1) terminate a district's designation as a district of innovation if, beginning with its ratings in the year of designation, the district is assigned for two consecutive school years:
    - (A) a final unacceptable academic performance rating under the Texas Education Code (TEC), §39.054;
    - (B) a final unacceptable financial accountability rating under the TEC, §39.082; or
    - (C) a final unacceptable academic performance rating under the TEC, §39.054, for one of the school years and a final unacceptable financial accountability rating under the TEC, §39.082, for the other school year;
  - (2) permit the district to amend the district's local innovation plan to address concerns specified by the commissioner in lieu of terminating the designation as described in paragraph (1) of this subsection; or
  - (3) terminate a district's designation as a district of innovation if the district:
    - (A) fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under the TEC, §12.1059;
    - (B) fails to comply with the duty to discharge or refuse to hire certain employees or applicants convicted of certain offenses under the TEC, §22.085; or
    - (C) fails to comply with the duty to discharge or refuse to hire certain employees or applicants not eligible for employment in public schools under the TEC, §22.092.
- (b) The commissioner shall terminate a district's designation as a district of innovation if, beginning with its ratings in the year of designation, the district is assigned for three consecutive school years:
  - (1) a final unacceptable academic performance rating under the TEC, §39.054;
  - (2) a final unacceptable financial accountability rating under the TEC, §39.082; or
  - (3) any combination of one or more unacceptable ratings under paragraph (1) of this subsection and one or more unacceptable ratings under paragraph (2) of this subsection.
- (c) Upon termination of an innovation plan, a district must return to compliance with all specified areas of the TEC by a date to be determined by the commissioner.
- (d) A decision by the commissioner under this section is final and may not be appealed.

*Statutory Authority: The provisions of this §102.1315 issued under the Texas Education Code, §§12A.001-12A.009.*

*Source: The provisions of this §102.1315 adopted to be effective September 13, 2016, 41 TexReg 7089; amended to be effective January 8, 2020, 45 TexReg 339.*