

Guidance for Implementation of the Innovation Schools Act

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Background

The Innovation Schools Act encourages schools and districts to design and implement innovative practices in a wide variety of areas for the purpose of improving student outcomes and to obtain waivers from policies that would otherwise present obstacles to these innovations. The Act provides a process that allows schools to petition their local school boards for waivers from district-level policies. Local school boards then may petition the State Board of Education for waivers from certain state-level laws and regulations that would otherwise apply to the Innovation Schools in their districts. Upon agreement of affected employees at Innovation Schools, collective bargaining agreement provisions may be waived as well.

The stated purpose of the Act is to provide additional flexibility to schools and districts for the purpose of meeting student needs, and it is the intent of the Colorado Department of Education to interpret the provisions of the Act broadly so as to maximize this flexibility. The Department encourages schools and districts that believe existing policies and procedures inhibit their ability to serve students well to pursue the waivers permitted under the Act.

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Eligibility to become an Innovation School or Innovation School Zone

Any public school may apply to its local school board to become an Innovation School. Groups of public schools within a district may apply to become Innovation Schools operating in an Innovation School Zone. Since charter schools are public schools, a charter school may apply to become an Innovation School. The school's head administrator has authority to represent the school in this process, as long as the provisions of the Act are followed.

Local school boards also are encouraged to proactively solicit one or more schools in their district to apply for Innovation School status, and to work collaboratively with

schools on the planning and application process. There is no limit on the number or percentage of Innovation Schools that can operate within a single district. Local boards may collaborate with their schools so that all schools in the district are within an Innovation School Zone, as long as the process for approval is followed at each school and each school is given the opportunity to participate in planning.

Schools that plan to apply for Innovation School status must obtain approval from a majority of the teachers and a majority of the administrators currently employed at the school and from a majority of the members of the school advisory committee. Schools also must provide with their application a statement indicating the level of support for designation as an innovation school demonstrated from other employees at the school, students and parents of students enrolled in the school, and the community surrounding the school. Lastly, the school or schools must submit an innovation plan.

Please note that obtaining approval from a majority of teachers to apply to become an Innovation School does not thereby automatically waive collective bargaining act provisions which might be affected by an innovation plan. The process to waive collective bargaining agreement provisions is discussed separately below.

Developing an Innovation Plan

The application process for both Innovation Schools and Innovation School Zones requires the submission of an innovation plan. Schools should view the development of the innovation plan as an opportunity for the school community to think strategically about what changes are needed to best serve all students effectively.

No state funding is currently available for the development or implementation of the innovation plan. However, schools and districts are encouraged to seek grants from foundations and other organizations to support this process.

Developing the innovation plan requires schools to identify (1) “innovations,” or new approaches that are intended to increase the school’s ability to achieve its mission and (2) the specific waivers from district policy, collective bargaining agreement provisions, and/or state laws and regulations that are required to give the school the ability to implement the innovations.

Schools are encouraged to be creative in developing their innovations. Possible areas of innovations may include, but are not limited to the following:

- **School staffing**, which may include changes in teacher-student ratios and leadership structure, the addition of site-based special service providers, or the ability to use online content providers;
- **Curriculum, instruction and assessment**, which could include the use of a site-based curriculum or the use of assessments to make promotion decisions;
- **Class scheduling**, which could include the use of block schedules, extended school days, or extended school years;

- **Accountability measures**, including expanding the use of a variety of accountability measures, such as graduation or exit examinations, student portfolio reviews, and student and parent accountability contracts;
- **Provision of services**, including special education services, services for gifted and talented students, services for students for whom English is not the dominant language, educational services for students at risk of academic failure, expulsion or dropping out, and support services provided by the Department of Human Services or county social services agencies;
- **Use of financial and other resources**, which could include providing more site-based control over resources or allowing for purchasing of staff according to “real” cost rather than average cost;
- **Faculty recruitment, preparation and professional development, evaluation, and compensation**, which could include to the ability to conduct one’s own recruitment and hiring processes, design of professional development, use of peer-based evaluation, or implementation of a site-based pay incentive program;
- **School governance** and the roles, responsibilities and expectations of principals in innovation schools or zones; and
- **Preparation and counseling of students** for transition to higher education or the workforce.

As noted above, the Innovation Schools Act actively encourages local school boards to work with their schools to create Innovation School Zones. Collaborative local boards creating Innovation School Zones may be able to achieve results on a greater scale and more quickly than would occur with individual Innovation Schools.

Local boards may want to consider creating Innovation School Zones for categories of schools, such as those that are consistently underachieving and require turnaround, or for highly effective schools that earn flexibility from certain district policies. Local boards also may want to consider creating a district-wide Innovation School Zone that holds schools accountable based on performance contracts, rather than based on compliance with local policy requirements.

CDE encourages local school boards to make template application materials available to district schools.

Requesting Waivers

Public schools in Colorado are subject to regulation from a variety of sources. The Innovation Schools Act allows schools to obtain waivers from requirements stemming from three sources: state statutes and regulations, district policies, and negotiated collective bargaining agreement provisions. Restrictions in these categories may be waived as long as the Act does not specifically prohibit waiving that restriction and as long as the procedures of the Act are followed.

For example, an Innovation School that wants to operate with the freedoms available to charter schools could request the same package of waivers that are automatically granted

to charter schools in Colorado, plus additional waivers that might be required to implement the planned innovations. Charter schools in Colorado receive automatic waivers from the following statutes:

Statutes Automatically Waived for Colorado Charter Schools	Scope of Statutes/Waivers
Section 22-9-106, C.R.S.	Section outlines local school board duties concerning performance evaluations for licensed personnel. Waivers from this statute allow charter schools to use their own method for evaluation of licensed personnel.
Section 22-32-109(1)(f), C.R.S.	Section outlines local school board duties concerning selection of personnel and pay. Waivers from this statute allow charter schools to select their own personnel and determine payment.
Section 32-110(1)(h), C.R.S.	Section outlines local school board powers concerning termination of school personnel. Waivers from this statute allow charter schools to terminate personnel according to their own policies.
Section 22-32-126, C.R.S.	Section outlines employment requirements for principals and authority of principals. Waivers from this statute allow charter school’s governing body to determine employment requirements for principals and responsibilities of principals.
Sections 22-63-201 through 203, 22-63-206, 22-63-301 through 302, and 22-63-401 through 403, C.R.S.	These sections from the Teacher Employment, Compensation, and Dismissal Act may be waived to allow charter schools to hire unlicensed teachers, to operate free from teacher employment contracts, to employ teachers as at-will employees, and to determine compensation for teachers.

These are the waivers automatically granted to charter schools, and charter schools are also free to request waivers from other requirements. Similarly, Innovation Schools may request waivers from requirements other than those that are expressly prohibited.

In developing an innovation plan, schools and districts should be aware that federal requirements generally cannot be waived under the Innovation Schools Act process, because a state cannot waive federal laws. This would include, for example, provisions of the Individuals with Disabilities in Education Act and No Child Left Behind federal legislation. Thus, although an Innovation School may obtain waivers from the state requirement that teachers be licensed, any teachers who are not licensed would not be considered “highly qualified” for purposes of NCLB.

In addition, the following state laws and regulations may not be waived:

- Public School Finance Act of 1994 (article 54 of title 22, C.R.S.);
- Exceptional Children’s Educational Act (article 20 of title 22, C.R.S.);

- Provisions of the Educational Accountability Act pertaining to the data necessary for school accountability reports (Part 5 of Article 11 of Title 22, C.R.S.);
- Any provision of title 22 of C.R.S. that relates to fingerprinting and criminal history record checks of educators and school personnel;
- Children’s Internet Protection Act (article 87 of title 22, C.R.S.);
- Retirement Systems Act (article 64 of title 22, C.R.S.); and
- Any statutes that are not included in Article 22, including but not limited to the Public Employees’ Retirement Association Act (Article 51 of Title 24, C.R.S.).

District policies, collective bargaining agreement provisions, and state laws or regulations that are not specifically excluded by the statute may be waived. For a list of Colorado state-level statutory provisions and regulations that a school may consider for waiver, see the Other Resources section of this guidance.

Any policy or contract provision that is not expressly waived will remain in effect.

Required Components of an Innovation Plan

The innovation plan for a school seeking designation as an Innovation School must include the following components:

Requirement	X
A statement of the school’s mission and why designation as an Innovation School would enhance the school’s ability to achieve its mission. (Note that this requires the school to create a mission statement, if it does not already have one.)	
A description of the innovation/s the school would implement.	
A description of the improvements in academic achievement that the school expects to achieve as a result of the innovations. For example, a school may expect to see a narrowing in achievement gaps, or a decreased dropout rate, or increased scores on state or local assessments.	
A list of the programs, policies, and/or operational documents at the school that would be affected by the innovations, and how these would be affected. For example, if a school proposes to extend the school year, that would affect the school’s calendar. Other examples of programs/policies/documents that may be affected include the following: <ul style="list-style-type: none"> • the research-based educational program the school would implement; • the length of the school day and year at the school; • student promotion and graduation policies; • assessment plans; and/or • staffing and/or compensation plans 	

Requirement	X
<p>The school's prior year budget and a proposed budget, including funding required for all innovations to be implemented. This budget should include all costs associated with innovations, including staffing costs, and information about any local, state, federal or private funds the school anticipates receiving. For a sample budget template, please visit: http://www.cde.state.co.us/cdefinance/FinancialReportingFY2010-11.htm.</p>	
<p>An estimate of the cost savings and increased efficiencies that the school expects to see as a result of the innovations, if any.</p>	
<p>Evidence that a majority of the following groups consent to designation as an Innovation School (this may be shown through individual signatures or through the signature of a person authorized to act on behalf of the group, for example):</p> <ul style="list-style-type: none"> • majority of administrators employed at the school; • majority of teachers employed at the school; and • majority of the School Advisory Committee. 	
<p>A statement of the level of support for designation as an Innovation School demonstrated by other persons employed at the school, students and parents of students enrolled in the school, and the community surrounding the school. (Note that this does not require evidence of majority support.)</p>	
<p>A description of state and district policies that need to be waived before the innovations can be implemented, which may include:</p> <ul style="list-style-type: none"> • provisions of state statutes contained in Article 22 of the Colorado Revised Statutes (except those that cannot be waived); • provisions of state regulations adopted by the State Board of Education; and/or • district policies, such as rules adopted by the local board of education or requirements established by district administration 	
<p>A description of the manner in which the innovation school/s shall comply with the intent of the waived statutes or rules and shall be accountable to the state for such compliance.</p>	
<p>If innovations are related to employment practices and/or staffing plans, a description of how the school(s) will continue to comply with NCLB Title II-A requirements (in those districts receiving Title II-A funding).</p>	
<p>A statement as to whether the district will seek a waiver by an innovation school of any of the provisions of the collective bargaining agreement, and a description of any such waiver(s).</p>	
<p>Any additional information required by the local school board of the school district in which the innovation plan would be implemented.</p>	
<p>A written resolution from the local school board approving the plan and seeking designation as a district of innovation.</p>	

For schools that are jointly seeking designation as an Innovation School Zone, the innovation plan must include all of the information described above, for each school in the Zone. In addition, the innovation plan for an Innovation School Zone must include:

- A description of how the schools will work together to achieve results that would be less likely if each school worked alone;
- An estimate of any economies of scale that may result from schools implementing innovations jointly; and
- A showing of how each school in the Innovation School Zone solicited input from students, parents, and community members concerning the selection of the schools in the zone and the strategies and procedures that would be used to implement and integrate innovations in schools within the zone.

There is no statutory deadline for submitting an Innovation Plan to the local board of education.

Template innovation plans may be available from the organizations listed in the Other Resources section of this guidance.

Review by Local School Board

Once the school or zone has created its Innovation Plan and obtained the necessary approvals and statements of support, the plan is submitted to the local school board, which reviews it and makes a decision within 60 days. The local board is not required to approve an innovation plan and there is no appeal process from a denial. If the local board disapproves the plan, however, it must provide a written explanation, and the applicant/s may resubmit an amended plan at any time. If the local board approves the plan, the requests for waivers from district-level policies are granted.

In order to obtain waivers from state laws and regulations and from collective bargaining agreement provisions that would otherwise apply to the school, the local board must proceed to the next step to be designated as a District of Innovation by the State Board of Education.

Review by the State Board of Education

To obtain waivers of state statutes and regulations for its Innovation Schools (and to complete the process of obtaining waivers of collective bargaining agreement provisions for the schools), the local school board must submit the innovation plan (or plans) to the State Board of Education, as part of the district's application to become a District of Innovation.

The commissioner and the state board will review and comment on the plan within 60 days after receiving it. They may make suggestions for improving the plan (including suggestions for further innovations), and the local board is free to accept them by

amending and resubmitting the plan. The local board is also free to disregard the suggestions and proceed with the original plan.

The State Board of Education is required to accept the innovation plan and designate the district as a District of Innovation within 60 days after receipt of the plan. It may only deny the application if it concludes either (1) that the requested innovations are likely to result in a decrease in academic achievement or (2) the plan is not fiscally feasible. The board must provide a written explanation for a denial, and local school boards are free to submit amended or different innovation plans at any time. Upon district designation as a District of Innovation, the State Board of Education waives all statutes and regulations contained in the innovation plan as they apply to the Innovation School or Innovation School Zone. Any statutes and regulations that are not waived remain in effect.

Districts of Innovation are required to specify how the Innovation Schools in the district will comply with the intent of statutes and regulations that have been waived. For example, if a District of Innovation obtains a waiver from the state statute that governs personnel performance evaluations, the district should specify how the alternative evaluation procedure will permit fair and accurate evaluations that are intended to improve student achievement. The district is accountable to the state for ensuring compliance.

The local school board may revise the innovation plan, and may request that the State Board of Education grant additional waivers as necessary for the revision. As long as the local school board demonstrates the consent of the majority of teachers, administrators, and the members of the school advisory committee for each affected school, the State Board shall grant the request.

Waivers of Collective Bargaining Agreement Provisions

Once the district has obtained designation from the State Board of Education as a District of Innovation, waivers of collective bargaining agreement provisions may be sought. Each collective bargaining agreement in a District of Innovation must include a term that allows Innovation Schools to be exempt from provisions that are identified in the innovation plan for that school or zone.

For the requested waivers of collective bargaining agreements to occur, 60 percent of the members of the collective bargaining unit employed at the school must agree to the waivers. If the waivers sought are on behalf of schools in an Innovation School Zone, 60 percent of bargaining unit members at each school must approve the waivers. These votes must be held by secret ballot.

Schools and districts should be aware that the percentage of employees whose approval is required for waiver of collective bargaining agreement provisions is greater than the percentage required for approval of the application to become an Innovation School. Only majority support is required to apply to become an Innovation School (and thereby obtain waivers from district and state policies), while a supermajority of 60 percent is

required to waive collective bargaining agreement provisions. Thus, it is possible for an Innovation School to have obtained waivers from district and state policies but not from collective bargaining agreement policies. However, it is also possible for an Innovation School to obtain the supermajority necessary to waive collective bargaining agreement provisions in the same process used for approval of the Innovation School application, if bargaining unit members are apprised of the specific provisions sought to be waived under the innovation plan and the ballot is secret.

If waivers of collective bargaining agreement provisions are required to fully implement planned innovations, schools and districts should plan accordingly. For example, a school may wish to obtain one or more preliminary votes during the planning process, to gauge the level of support for waiving contractual provisions.

Local Review of Performance of Innovation Schools

Three years after a local school board approves a school's innovation plan or a plan for creating an Innovation School Zone, and every three years thereafter, the local school must review the performance of the Innovation School and each school included in an Innovation School Zone to determine whether the school or zone is achieving or making adequate progress towards achieving the academic performance goals set out in the school's or zone's Innovation Plan.

If the school is not reaching achievement goals, the local school board may work with the school or zone to revise the Innovation Plan to improve or continue to improve the academic performance in the school or zone. Any revisions to the innovation plan require the consent of a majority of the teachers and a majority of the administrators employed at the school, as well as the consent of a majority of the school accountability committee at each of the affected schools. The local board also may decide to revoke the school's innovation status or to remove an underperforming school from an Innovation School Zone. The Act does not provide any appeal process for a school if a local board revokes the school's innovation status.

Waivers that are granted to or on behalf of an Innovation School continue for as long as the school remains an Innovation School or part of an Innovation School Zone.

Reporting and Accountability Requirements

Innovation Schools are accountable to their districts for demonstrating student achievement. Local school boards should be clear with their Innovation Schools as to how student achievement is to be demonstrated, and how the district's accreditation process will operate regarding Innovation Schools.

Local boards are accountable to the state for the performance of all schools in their districts, including Innovation Schools, under state and federal accountability requirements. The Innovation Schools Act does not place any additional accountability requirements on districts for the performance of Innovation Schools.

The state commissioner of education and the State Board of Education are required to annually report on the implementation of the Innovation Schools Act to the education committees of the House and the Senate.

Contacts at the Colorado Department of Education

More information about the Innovation Schools Act is located on CDE's website. For questions about the Innovation Schools Act, or to submit an application to become a District of Innovation, please contact:

Kady Dodds
Colorado Department of Education
201 East Colfax Avenue
Denver, CO 80203
Email: dodds_k@cde.state.co.us

Other Resources

Nonprofit groups may have additional resources of interest to schools and districts as they implement the Innovation Schools Act. CDE assumes no responsibility for the development and use of these resources.

The following nonprofit groups are advocates for education reform in Colorado, and have been active in developing resources for schools and districts in implementing the Innovation Schools Act. Available resources may include Frequently Asked Questions, template applications, examples of innovative practices that schools and districts may wish to consider, and lists of statutes and regulations that may be waived. Contact these groups for more information.

A Plus Denver
<http://www.aplusdenver.org/>
(assistance with community engagement)

Colorado Children's Campaign
www.coloradokids.org

Colorado League of Charter Schools
www.coloradoleague.org

Donnell-Kay
<http://www.dkfoundation.org/>

Get Smart Schools
<http://www.getsmartschools.org/>