

Guidance for Implementation of the Innovation Schools Act

**Version 1.3
February 2012**



Table of Contents	
Overview of the Innovation Schools Act	1
Why Seek Innovation Status?	1
Process for Seeking Innovation Status	4
Developing an Innovation Plan	6
Obtaining Consent.....	8
Seeking Waivers	8
Seeking Approval of Collective Bargaining Waivers.....	10
Implementation and Review	11
Reporting and Accountability Requirements	12
Contacts at the Colorado Department of Education	12
Other Resources	12

Overview of the Innovation Schools Act

The Innovation Schools Act provides a path for schools and districts to design and implement innovative ideas and practices and to obtain waivers from state and local policies and collective bargaining agreements that challenge their ability to execute their ideas. 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.

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. The school's head administrator has authority to represent the school in this process, as long as the provisions of the Act are followed. The Department encourages schools and districts to pursue innovation status and to seek waivers permitted under the Act if existing policies and procedures inhibit their ability to innovate and/or serve their students well.

A copy of the Innovation Schools Act is available on the department's website at: <http://www.cde.state.co.us/cdegen/downloads/SB130Statute.pdf>.

Why Seek Innovation Status?

The Innovation Schools Act was created, in part, to respond to public school and district leaders who were asking for autonomies similar to those received by charter schools. Their position was that charter schools were at an advantage because they had greater flexibility and control over their resources at the school level and could leverage these resources to best meet the needs of their students in ways that district managed schools could not because they were often bound to a more centralized district and state-wide set of rules, agreements, and restrictions. While they wanted more autonomy, they didn't want full responsibility for their operations and human resources like charter schools.

As such, the Innovation Act was created to provide this path to flexibility and autonomy for those who chose to seek it. Thus far, most of the Innovation Schools in the state are located in Denver. A recent study of the Denver Public Schools' Innovation Schools¹ found that the four major reasons that schools sought innovation status were to gain greater control over their budgets, schedule, staffing, and school operations.

Innovation status also provides the opportunity to try new educational approaches. For example, the Denver Green School is an innovation school that focuses on preparing students for a "sustainable, bright and green future."² Their innovation status has given

¹ Price, Challenger, Walters (Nov 2011). Crafting an Innovation School: Findings from Denver's first eight innovation schools. Denver: University of Colorado Evaluation Center, School of Education & Human Development.

² www.denvergreenschool.org

them the flexibility to utilize their resources, hire staff, and implement a curriculum, professional development, and instructional model that is aligned with their core mission. As an innovation school, like all innovation schools in DPS, they also have the opportunity to opt-out of certain DPS provided services and receive the equivalent share of funds for these services to fulfill these needs in other ways or through other vendors.

Local school boards 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.

Process for Seeking Innovation School or Innovation School Zone Status

Step 1: Develop an Innovation Plan

- Collaborate with school administrators and staff.
- Engage School Accountability Committee.
- Engage broader school community.
 - *Note: Applications must include a statement as to the level of support for designation as an innovation school or zone demonstrated by non-administrators and non-teachers employed in the school or zone, students and parents of students enrolled in the school or zone, and the community surrounding the school or zone. For innovation school zones, each school in the zone is required to specifically solicit input concerning the selection of schools in the zone and the strategies and procedures that would be used in implementing and integrating the innovations within the schools in the zone.*

Step 2: Obtain Consent

- Innovation school applications must include evidence that a majority of administrators employed at the school, majority of teachers employed at the school and majority of the School Accountability Committee members consent to designation as an innovation school.
- For innovation school zones, applications must include evidence of consent for designation as an innovation school zone from a majority of administrators, majority of teachers and majority of School Accountability Committee members for each school that would be included in the zone.

Step 3: Seek District Waivers/Approval of Plan

- A school may submit an innovation plan or a group of schools may submit a plan for creating an innovation school zone to its local school board.
- The local school board must consider the plan, including the requests for waivers from local rules and policies, and either approve or disapprove the plan within 60 days after receiving the plan.
- If the local school board rejects a plan, it must provide a written explanation of the basis for its decision.
- A school or group of schools may resubmit an amended plan at any time after denial.

Step 4: Seek State Waivers/Approval of Plan

- If the local school board approves one or more innovation plans or plans for creating an innovation zone, and if the plan or plans include requests for waivers from state statutes or regulations, the local school board may then submit the plan or plans to the commissioner. If the innovation plans or plans for creating an innovation zone require waivers only from *local* rules and policies then there is no need to submit the plan to the commissioner.
- The commissioner and state board of education may provide suggested changes or additions to the plan, which may include suggestions for further innovations or for measures that might increase the likelihood that the innovations will result in greater academic achievement. This feedback must be provided within 60 days after the local school board submits an application. Based on any feedback it receives, the local school board may choose to withdraw and resubmit its plan.
- Once the department determines that a plan is complete, the plan must be considered by the state board within 60 days and the state board must determine whether to approve or deny the plan.
- If the state board denies the plan, it must submit a written explanation of the basis for its decision.

Step 5: Seek Approval of Collective Bargaining Waivers (if applicable)

- Waiver of one or more provisions of a collective bargaining agreement requires the approval, via a secret ballot vote, of at least sixty percent of the members of the collective bargaining unit who are employed at an innovation school.
- On or after the date that the state board approves the plan submitted by a local school board, any collective bargaining agreement initially entered into or renewed by the local school board must include a term that allows each innovation school and/or zone in the district to waive any provisions of the collective bargaining agreement identified in the plan as needing to be waived for the school(s) to implement the identified innovations.

Step 6: Implementation and Review

- Once approved by the state board, waivers from state statute and regulation are in effect immediately.
- Three years after a local school board approved the plan, and every three years thereafter, the local school board must review the performance of the school(s) and determine whether the school or zone is achieving or making adequate progress toward achieving the performance results identified in the plan.
- If the academic performance of an innovation school or one or more schools in an innovation zone are not improving sufficiently, the local school board may revoke a school's innovation status, or may require that the plan be revised to improve academic performance.

There are no statutory deadlines for when applications must be developed or approved. However, the department recommends that schools and districts plan for innovation applications to be approved in the spring, so that schools can take the necessary steps, including parent outreach, staffing decisions, and scheduling/calendaring, to ensure that plans can be implemented at the beginning of the following academic school year. Districts may want to engage stakeholders and develop plans in the fall, seek approval from local school boards and the state board of education in the winter, and work on the first stages of implementation in the spring.

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. Specifically,

schools should think about what they want to accomplish through innovation status and what success will ultimately look like for their school, what barriers are getting in the way of achieving that success (and thus what waivers or other flexibilities are they seeking), and what ideas, strategies, or staffing and budget models might the school want to try in order to achieve their goals and be successful.

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 providers;
- **Curriculum, instruction and assessment**, which could include the use of a site-based curriculum or the use of formative and interim assessments that differ from those used by the district;
- **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, competency-based pathways, or 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 and/or using private vendors for certain services in lieu of receiving them from the district;
- **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. GetSmartSchools, a Colorado non-profit organization that focuses on working with charter and innovation schools, has made several resources, including a model application and budget template, available on its website at: <http://getsmartschools.org/services/innovation>. Template innovation plans also may be available from the organizations listed in the Other Resources section of this guidance.

For a checklist of required components of an innovation plan, please see Appendix A.

Obtaining Consent

CDE encourages local school boards and principals guiding the development of innovation plans to involve teachers, administrators, parents and other community members in the process as early as possible. Possible strategies include inviting interested parties to information meetings about the innovation process, hosting forums for interested parties to discuss their opinions (with or without school staff present). School Accountability Committees also may be assigned partial or direct responsibility for developing an innovation plan

Seeking Waivers

Identifying Appropriate 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. In their applications, innovation schools must outline replacement policies that demonstrate how the school will continue to comply with the intent of the waived statute, regulations, or policies.

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. For a list of the automatic waivers that charter schools in Colorado receive, please see Appendix B.

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 Appendix B.

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

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 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.

Seeking Approval of Collective Bargaining Waivers

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.

Implementation and Review

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:

Amy Anderson
Assistant Commissioner for Innovation and Choice
Colorado Department of Education
201 East Colfax Avenue
Denver, CO 80203
Phone: 303-866-6938
Email: anderson_a@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.

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

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

Colorado League of Charter Schools
www.coloradoleague.org