

**PRESENTED AT**

**34<sup>th</sup> Annual School Law Conference**

February 28 – March 1, 2019  
Austin, Texas

**Districts of Innovation:  
Frightening or Freedom?**

**Amanda Bigbee  
Julie Leahy**

Amanda Bigbee  
Keller ISD  
350 Keller Parkway, Keller, TX 76248  
Amanda.Bigbee@kellerisd.net  
817.744.1000

Julie Leahy  
Texas Classroom Teachers Association  
P.O. Box 1489, Austin, TX 78767  
J.Leahy@tcta.org  
512.477.9415

## Districts of Innovation:

### Frightening or Freedom?

In 2015, the 84<sup>th</sup> Legislature passed a law allowing districts, acting in the name of “innovation,” to exempt themselves from many provisions of the Texas Education Code and related administrative regulations. School districts are eligible for designation if the district’s most recent performance rating reflects at least acceptable performance. The Commissioner of Education’s rules related to districts of innovation went into effect on September 13, 2016 and since that time, 806 school districts have chosen to adopt innovation plans.<sup>1</sup> As those plans have gone into effect, stakeholders have had an opportunity to examine what specific statutory provisions districts of innovation are including in their plans, the impact of those plans on school operations, and to identify how a district of innovation plan functions in a real-world setting. Accordingly, new issues have emerged related to districts of innovations, including amendments, compliance with adopted plans and unintended consequences.

### **What Are the Most Common Areas of Exemption?**

When adopting an innovation plan, arguably the most important task a school district must undertake is to identify the exemptions it wants to include.<sup>2</sup> The statute and related rules provide districts with guidance both as to what areas of the law may be included in an innovation plan and which statutory provisions explicitly may not be included. A local innovation plan must provide for a comprehensive educational program for the district, and may include the following:

1. an innovative curriculum, instructional methods, and provisions regarding community participation, campus governance, and parental involvement;
2. modifications to the school day or year;
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.

---

<sup>1</sup> Source TEA website

<sup>2</sup> This paper will not discuss the process by which a district becomes a district of innovation. For information regarding that process, please see Texas Education Code Chapter 12A, TEA rules, and TEA’s website at [https://tea.texas.gov/Texas\\_Schools/District\\_Initiatives/Districts\\_of\\_Innovation/](https://tea.texas.gov/Texas_Schools/District_Initiatives/Districts_of_Innovation/).

The plan must identify requirements imposed by the Texas Education Code that keep the district from reaching its goals and from which the district should be exempt on adoption of a plan.<sup>3</sup> A local innovation plan may not exempt the district from:

1. a state or federal requirement applicable to a charter school;
2. Subchapters A, C, D, and E, of Chapter 11 of the education code, except for Sections 11.1511(b)(5) and (14) and Section 11.162;
3. state curriculum and graduation requirements; or
4. academic and financial accountability.<sup>4</sup>

The Commissioner's Rules Concerning Innovation District contain a detailed list of specific provisions of the Texas Education Code that may not be exempted by a district of innovation.<sup>5</sup> The rules also specify that in addition to those prohibited exemptions, 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; and
- (3) requirements imposed by provisions outside the TEC, including requirements under the Texas Government Code, Chapter 822.<sup>6</sup>

By definition, all districts of innovation are different. However, as an increasing number of districts have chosen to adopt innovation plans, there are some specific exemptions that have proven to be adopted more widely than others. TEA is required to maintain a list of statutory provisions from which school districts designated as districts of innovation are exempt, so we can look at that data to identify the provisions that districts most commonly exempt themselves from.

---

<sup>3</sup> Texas Education Code § 12A.003

<sup>4</sup> Texas Education Code § 12A.004

<sup>5</sup> 19 Texas Administrative Code § 102.1309(a)

<sup>6</sup> 19 Texas Administrative Code § 102.1309(b)

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Districts of Innovation: Frightening or Freedom

Also available as part of the eCourse

[Hot Topics in School Law: Districts of Innovation and the Special Education Corrective Action Imposed on the TEA and Districts](#)

First appeared as part of the conference materials for the  
34<sup>th</sup> Annual School Law Conference session  
"Districts of Innovation: Frightening or Freedom"