

Innovation Schools Act

Guidance Book

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# Overview of the Innovation Schools Act

The Innovation Schools Act (C.R.S 22-32.5-101 et. Seq.) 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 (CDE) 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.

CDE 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.

# Why Seek Innovation Status?

The Innovation Schools Actof 2008 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 Act was created to provide this path to flexibility and autonomy for those who chose to seek it.

Innovation status also provides the opportunity to try new educational approaches. For example, the Denver Green School (Denver Public Schools) is an Innovation School that focuses on preparing students for a “sustainable, bright and green future.”[[1]](#footnote-1) Their Innovation status has given 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 in Denver Public Schools, they also have the opportunity to opt-out of certain provided services from the district 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 school 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. For example, in Mancos and Kit Carson school districts all schools are within an Innovation School Zone.

Process for Seeking Innovation School or Innovation School Zone Status

# Timeline

There are no statutory deadlines for when applications must be developed or approved. However, CDE 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 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 to achieve their goals and be successful. CDE developed an [Innovation Plan Cover Page and Checklist](https://www.cde.state.co.us/choice/innovationplancoverpage) to help applicants ensure that all parts required by law are included in the plan. For examples of Innovation Plans, visit our [webpage](https://www.cde.state.co.us/cdechart/automaticwaiverlist-excel).

Developing the Innovation Plan requires schools to identify:

* “Innovations,” or new approaches that are intended to increase the school’s ability to achieve its mission; and
* The specific waivers from district policy, collective bargaining agreement (CBA) 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 innovation 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 (e.g., culturally relevant 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, family supports, and other 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,** including the roles, responsibilities, and expectations of principals in Innovation Schools or Zones and/or shared leadership models;
  + Alternative governance models implemented in Innovation School Zones which can include delegation of some management activities to a non-profit organization;
* **Preparation and counseling of students** for transition to higher education or the workforce;
* **Community school**, defined as a public school that implements the following:
  + An annual asset and needs assessment that engages at least seventy-five percent of families, students, and educators in the community;
  + A strategic plan with the creation of problem-solving teams who are dedicated to continuous school improvement and define how educators and community partners collaborate; and
  + A community school coordinator who is a school staff member at the school site and who facilitates the problem-solving teams and assembles stakeholders to solve problems identified by the asset and needs assessment explained above.
* Other **transformational school strategies**, such as the implementation of positive discipline practices and/or family and community engagement strategies.

## 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. In addition, 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.

A group of schools that submits a plan for an Innovation School Zone may also seek an alternative governance model and have some management activities delegated to an organization (cannot be a for-profit organization) that forms a partnership with the local board. In this instance, the Innovation School Zone plan requires more information regarding this relationship.

The Innovation Plan requires:

* An explanation of how alternative governance will help achieve the vison and goals of the innovation zone;
* A description of the organization, the governing board, and governance structure;
* A description of the roles and duties of the organization’s governing board, which must include at least overseeing the implementation of the innovation plan and supporting academic progress;
* A description of the zone staffing structure and management the organization will provide;
* A description of how funds will be used to achieve the mission and academic performance of the innovation plan;
* A description of where an easily accessible link to the organization’s financial information (form 990, 990-EZ, or 900-PF) is located on the zone website;
* A description of the terms under and process by which a school within an innovation school zone may elect to leave the innovation school zone; and
* A description of the method the district will use for determining the cost of services and a corresponding financial agreement with the innovation school zone.

# Obtaining Consent

CDE encourages local school boards and school leaders 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 (SAC) also may be assigned partial or direct responsibility for developing an Innovation Plan.

**New Innovation Schools**

If these groups have not been established or hired prior to submitting the Innovation Plan to CDE, then the plan must state that a vote will be conducted with each of these groups to determine consent by a specific month/date.

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 SAC 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 the SAC members for each school that would be included in the zone.

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 rules, district policies and regulations, and negotiated CBA provisions. Almost any restrictions in these categories may be waived as part of the Innovation Plan application. Innovation Schools must outline in their plans the replacement policies that demonstrate how the school will continue to comply with the intent of the waived statutes, regulations, or policies.

In developing an Innovation Plan, schools and districts should be aware that federal requirements 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 Every Student Succeeds Act. In addition, Innovation Schools and Zones may not waive the following state laws and regulations:

* 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.);
* Data for school performance reports, including state assessments (Part 5 of Article 11 of Title 22, C.R.S.);
* Fingerprinting and criminal history record checks of educators and school personnel;
* Children’s Internet Protection Act (article 87 of title 22, C.R.S.);
* Requirement to post online the list of waivers that have been obtained;
* Any provision of section 22-1-130, C.R.S., relating to notification to parents of alleged criminal conduct by school district employees;
* 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.).
* Comprehensive human sexuality education content requirements (22-1-128, C.R.S.);
* Requirements concerning suspension and expulsion of students in preschool through second grade (22-33-106.1, C.R.S.);
* Discrimination based on hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race; and
* Non-education statutes (statutes outside of Title 22).

District policies, CBA provisions, and state laws or regulations that are not specifically excluded by statute may be waived. Any policy or contract provision that is not expressly waived will remain in effect.

## Collective Bargaining Agreement Waivers

Innovation Schools or Innovation School Zones may also seek waivers from one or more provisions of a CBA. Each CBA 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 to a CBA to occur, 60 percent of the members of the collective bargaining unit employed at the school must agree to the waivers. For Innovation School Zones, 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 CBA 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 CBA provisions. Thus, it is possible for an Innovation School to have obtained waivers from district and state policies but not from CBA policies. However, it is also possible for an Innovation School to obtain the supermajority necessary to waive CBA 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 CBA 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.

Approval of Plans

## 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. The local board has 60 days to review the plan and decide to approve or deny the application. If the local board denies the plan, it must provide a written explanation, and the applicant may resubmit an amended plan at any time. Currently, there is no appeal process from a denial. If the local board approves the plan, the requests for waivers from district-level policies are granted.

To obtain waivers from state laws and regulations, the local board must proceed to the next step to be designated as a District of Innovation by the state board.

## Review by Colorado State Board of Education

The district must submit the Innovation Plan to the state board, as part of the district’s application to become a District of Innovation. The Innovation Plan application must include a signed resolution from the local board indicating its approval of the Innovation Plan.

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.

Within 60 days after receipt of the Innovation Plan, the state board must accept or deny the application. In making their determination, the state board must consider the following:

* Is the plan likely to enhance educational opportunity, standards, and quality within the Innovation School or Innovation School Zone; and
* Is the plan fiscally feasible.

If the state board denies the plan, it must provide a written explanation for the denial, and local school board is free to submit amended or different Innovation Plan at any time. If the state board approves the plan and designates the school district as a District of Innovation, the state board waives all state statutes and regulations contained in the Innovation Plan for the respective school or group of schools. Any statutes and regulations that are not waived remain in effect. Waivers granted to an Innovation School continue for as long as the school remains an Innovation School or part of an Innovation School Zone.

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. The district is accountable to the state for ensuring compliance.

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.

The local school board may revise the Innovation Plan and may request that the state board grant additional waivers as necessary for the revision. The local school board must demonstrate that the new waiver or change to an existing waiver has the consent of the majority of teachers, administrators, and members of the school advisory committee for each affected school. If the state board determines that the new or changed waivers would enhance educational opportunity, standards, and quality within the Innovation Schools or Innovation School Zones and are fiscally feasible, the state board will grant the request.

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.

# 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.

CDE is required to annually report on the implementation of the Innovation Schools Act to the Governor and the education committees of the Colorado House of Representatives and the Colorado Senate.

Contact Information

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:

Schools of Choice Office

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Email: [SOC@cde.state.co.us](mailto:soc@cde.state.co.us?subject=Innovation%20Schools%20Act%20Question%20)

1. www.denvergreenschool.org [↑](#footnote-ref-1)