

The Texas Education Agency (TEA) proposes amendments to §102.1303 and §102.1313, concerning innovation districts. The proposed amendments would modify the requirements for renewal of a local innovation plan.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 102, Subchapter JJ, establishes provisions relating to the applicable processes and procedures for innovation districts.

The proposed amendment to §102.1303(a) would clarify that it is the district's final and most recent academic performance rating that must be at least acceptable performance in order to be eligible for designation as an innovation district.

The proposed amendment to §102.1313(a)(3) would specify that the district is not required to notify the commissioner of education of the board's intention to vote on the adoption of the renewal of a local innovation plan.

Proposed new §102.1313(a)(3)(A) would require the district to meet eligibility requirements under §102.1303 in order to be eligible to renew a local innovation plan. Proposed new §102.1313(a)(3)(B) would allow a district that chooses to renew its local innovation plan to do so in the six months subsequent to the plan's expiration date to maintain a continuous designation as a district of innovation.

Proposed new §102.1313(a)(3)(B)(i) would clarify that the term of a renewed plan may not begin prior to the date on which it is adopted by the board of trustees unless the plan is adopted as renewed within the six months following its expiration date. Proposed new §102.1313(a)(3)(B)(ii) would clarify that the term of a plan renewed during the six months subsequent to the plan's expiration date begins on the date of expiration of the prior term and may not exceed five years. Proposed new §102.1313(a)(3)(B)(iii) would clarify that any changes made to the plan during the renewal process are not effective prior to the date of adoption of the renewed plan, and proposed new §102.1313(a)(3)(B)(iv) would require the district to indicate the date of adoption next to any changes made to the plan during the renewal process in order to denote the earliest date the changes may take effect. Proposed new §102.1313(a)(3)(B)(v) would clarify that a district whose plan is not renewed during the six months subsequent to the plan's expiration date shall comply with all previously adopted exemptions upon the plan's expiration date and begin the initial adoption process over again in its entirety should the district wish to pursue designation as an innovation district in the future.

FISCAL IMPACT: Steve Lecholop, deputy commissioner for governance, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would both expand and limit an existing regulation. The proposed amendment to §102.1313 would add eligibility criteria for the purposes of renewing a local innovation plan, establish a time period after a plan's expiration but before its renewal during which a district's designation as an innovation district is valid, require districts to notate changes made to the plan during the renewal process, and clarify that districts whose plan is expired and not renewed during the established timeline shall, upon the date of the plan's expiration, comply with all exemptions that were previously

formally adopted and begin the adoption process over in its entirety should they wish to be designated a district of innovation again. The proposed amendment to §102.1313 also limits an existing regulation by reducing the process requirements associated with renewal.

The proposed amendments would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lecholop has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify eligibility criteria for designation as an innovation district and to specify that the eligibility requirements for initial adoption of local innovation plan are applicable to renewal of a local innovation plan, as well as to clarify requirements for renewal of a local innovation plan. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 31, 2023, and ends May 1, 2023. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 31, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code, §12A.009, which authorizes the commissioner of education to adopt rules to implement districts of innovation.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §12A.009.

<rule>

§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 ~~the~~ 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.

§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 ~~the~~ 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 education] of any actions taken pursuant to subsection (a) of this section along with the associated TEC exemptions and local approval dates.