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New school innovation law could put rights of educators, students, and parents at risk

ATPE submits comments on proposed rules for Districts of Innovation

AUSTIN, Texas — Some Texas school districts are taking advantage of a new law passed in 2015 that allows them to become Districts of Innovation, and it's causing concern for many educators and parents. The law allows certain acceptably performing school districts to claim exemptions from numerous state laws found in the Texas Education Code (TEC), enabling them to operate in essentially the same manner as charter schools. The state's largest educator association has raised serious concerns about how some districts are approaching the new flexibility.

The Association of Texas Professional Educators (ATPE) submitted comments on the education commissioner's rules for Districts of Innovation yesterday. We believe the innovation district law was intended to offer districts flexibility for limited purposes aimed at achieving specific goals, but some districts are using the law to claim entitlement to blanket exemptions of all the laws that can be waived, and they're doing so without explaining how they will use that flexibility.

"We're concerned that districts aren't making their innovation plans specific enough to give educators and parents of students who attend those districts adequate notice of the rights and protections they might be losing," said ATPE Executive Director Gary Godsey.

More importantly, ATPE is raising concerns about potential legal implications of blanket exemptions that cover a wide swath of school laws without specificity. The association is asking the commissioner to clarify the available exemptions in the rule and the notice that eligible districts are required to include in their innovation plans.

Districts of Innovation could give districts more local control, but there are several issues that cause concern:

- **Certification.** Districts could follow a charter school approach, not requiring all teachers to be certified when they're hired. No certification means they cannot be held accountable by the State Board for Educator Certification, which regulates educator preparation and handles disciplinary complaints against certified educators.
- **Class sizes.** Districts of Innovation can waive laws that regulate student-teacher ratios, as well as the hard cap of 22 students per classroom in elementary grades.
- **Discipline and school safety.** Districts of Innovation could waive laws dealing with student suspensions and expulsions in a way that potentially leaves students without proper means to an education. Innovation districts can also waive teachers' right to remove disruptive students from their classrooms.
- **Immunity.** Districts that seek sweeping exemptions from the majority of the education laws in their innovation plans might unintentionally waive the immunity statutes that protect them and their employees against costly lawsuits.

"We support innovation, but we are very concerned about both unforeseen consequences and the likelihood of vital stakeholders being ill-informed about the known consequences of exemptions being sought by their local school boards," Godsey said. "We're hoping the commissioner will use his rulemaking authority to provide much-needed guidance to districts pursuing this new flexibility."

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The Association of Texas Professional Educators (ATPE) has been a strong voice for Texas educators since 1980. It is the leading educators' association in Texas with more than 100,000 members statewide. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for 5 million public schoolchildren. ATPE is the ally and the voice of Texas public education.