

## **PROPOSED REGULATIONS ON INNOVATION SCHOOLS 603 CMR 48.00**

- Presented to the Board of Elementary and Secondary Education for initial review and vote to solicit public comment: **November 27, 2012**
- Period of public comment: **through January 4, 2013**
- Anticipated final action by the Board of Elementary and Secondary Education: **January 29, 2013**

The proposed regulations would replace the current Regulations on Innovation Schools, as amended January 24, 2012. Proposed amendments are indicated by underline (new language) or ~~strikethrough~~ (deleted language). The current regulations are posted online at: <http://www.doe.mass.edu/lawsregs/603cmr48.html?section=all>.

### **603 CMR 48.00: Innovation Schools Regulations**

#### **Section:**

- 48.01: Scope, Purpose, and Authority
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Most recently amended by the Board of Elementary and Secondary Education: January 24, 2012

#### **48.01: Scope, Purpose, and Authority**

(1) *Purpose.* The purpose of 603 CMR 48.00 is to provide uniform rules and procedures governing the establishment of innovation schools.

(2) *Authority.* 603 CMR 48.00 is promulgated under the authority of M.G.L. c.69, s.1B; c.71, s.92.

#### **48.02: Definitions**

As used in 603 CMR 48.00, unless the context clearly requires otherwise, terms shall have the following meanings:

*Academy.* An innovation program situated within an existing public school. The academy operates different instructional and other programs from the school in which it is situated. The academy will be included in the reporting of the school within which it is situated for the purposes of enrollment, accountability, and other school-level determinations. Students in innovation academies will receive a program code from the Department of Elementary and Secondary Education to facilitate monitoring of outcomes of the initiative.

*Board.* The Board of Elementary and Secondary Education or a person duly authorized by the Board.

*Commissioner.* The Commissioner of Elementary and Secondary Education or his/her designee.

*Department.* The Department of Elementary and Secondary Education.

*Eligible student.* A person eligible to enroll in a Massachusetts public school who is under the age of 22 and who has not attained a high school diploma or its equivalent.

*Home district.* The municipal or regional school district that is fiscally responsible for an eligible student's enrollment in a virtual innovation school.

*Innovation plan.* An educational and operational plan for the administration of an innovation school, established pursuant to M.G.L. c.71, s.92(c).

*Innovation school.* A school or academy authorized by a local school committee under the provisions of M.G.L. c.71, s.92.

*Innovation Schools Zone.* Two or more innovation schools operating within a particular school district in accordance with certain factors described in 603 CMR 48.04(2).

*Lead district.* Among two or more school districts sponsoring a single innovation school, the school district that is responsible for coordinating the formation of a screening committee. The lead district will be the district that will host the proposed innovation school and whose policies, including, but not limited to, transportation and discipline of students, will be in effect at the proposed innovation school, unless clearly stated in the approved innovation plan.

*Sponsoring district.* A municipal or regional school district responsible for authorization and oversight of an innovation school.

*Teacher.* For the purposes of a vote to approve conversion to an innovation school or academy, any person working half-time or more in a school or school district under a license listed in 603 CMR 7.04(3)(a), (b), or (d).

*Virtual innovation school.* An innovation school whose students receive 80 percent or more of their academic instruction on-line at a location other than a public school building. Public schools where on-line courses are offered as an adjunct to classroom instruction shall not be considered virtual innovation schools.

### **48.03: General Provisions**

(1) *Administrative bulletins.* The Board and the Department may, from time to time, issue administrative bulletins to interpret, implement, and provide guidance on 603 CMR 48.00.

(2) *Non-discrimination.* Innovation schools shall be open to all eligible students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language or a foreign language.

(3) *Compliance with laws and regulations.*

- a. As provided in M.G.L. c. 71, s. 92(c), a school committee, or committees in the case of innovation schools approved by multiple districts, that approves an innovation plan shall ensure that the innovation school operates in accordance with all laws regulating other public schools, except as the law conflicts with M.G.L. c. 71, s. 92(c) or any innovation plans created thereunder. School committees shall take particular care to ensure compliance with laws and regulations protecting the health, safety, and well-being of students and governing the compulsory attendance of school-age children.
- b. If an innovation plan committee is proposing an innovation plan that may conflict with laws (including regulations) governing other public schools, the committee shall, before presenting the plan to the school committee for approval, request approval from the Commissioner for any provision in the plan that may conflict with such laws. The Commissioner's approval shall be based on his determination that the plan is consistent with 603 CMR 48.03 (2) and with the state's obligations under the education clause of the Massachusetts Constitution, Mass. Const., pt. II, ch. V, s. II, as defined by a court of competent jurisdiction, and that the provision in the plan that may conflict with such laws is necessary to advance the mission or educational programs of the innovation school. If the Commissioner does not approve the proposed provision in the plan, the innovation plan committee may ask the Board to review the matter and the Board shall make the final decision.

(4) *Waivers.* Upon the written request of the Commissioner, the Board may waive any provision of 603 CMR 48.00 for good cause.

#### **48.04: Specific Provisions**

(1) *Innovation school serving two or more school districts.*

- a. If an eligible applicant, as identified in M.G.L. c.71, s.92(f), seeks to establish an innovation school that will serve students from two or more school districts, the superintendents of those districts shall jointly decide which district will be the lead district for purposes of the innovation school. The applicant shall prepare a prospectus for the proposed school and submit it to the superintendent of the lead district. The prospectus shall be reviewed by a screening committee convened by the superintendent of the designated lead district and constituted of individuals from the lead district. If the prospectus is accepted by two-thirds of the screening committee, the applicant shall form an innovation plan committee.
- b. The applicant may compose the innovation plan committee of individuals, as identified in M.G.L. c.71, s.92(i), from any of the sponsoring districts, including the lead district, whose students will be served by the proposed innovation school.

- c. The innovation plan must specify the tuition arrangement between the sponsoring districts.
- d. The innovation plan must be submitted for approval to the school committees of each sponsoring district that will be served by the proposed innovation school. Each sponsoring district's school committee must separately approve the submitted innovation plan in order for the innovation school to be authorized or re-authorized. The innovation plan may specify the procedure by which an innovation plan may be revised and re-submitted for approval if one or more sponsoring district school committees reject the initial innovation plan.

(2) *Innovation Schools Zone.* A school district may establish an Innovation Schools Zone, whereby the school district operates two or more innovation schools in accordance with common instructional themes or areas of focus, or in accordance with other factors as approved by the local school committee.

(3) *Screening committee's consideration of a revised prospectus.* If the screening committee returns the prospectus to the eligible applicant for revisions, the applicant may submit a revised prospectus to the screening committee for consideration. Within 30 days of receiving a revised prospectus, the screening committee shall decide, on the basis of a two-thirds vote, to accept or reject the prospectus, or return the prospectus to the eligible applicant for further revisions.

(4) *Innovation plan approval process for conversion schools and academies.*

- a. In the case of converting an established program into an academy, the innovation plan must include a description of the teachers in the school to whom the innovation plan will be submitted for approval. Two-thirds of votes of the cast by the teachers in that election shall be required ~~teachers specified in the innovation plan must vote~~ to approve the innovation plan. In the case of proposing a new program as an academy, the applicant shall follow the process laid out in M.G.L. c.71, s. 92(1) for establishing a new school.
- b. In the case of a school conversion or the conversion of an established program into an academy, the innovation plan shall describe the process and schedule for seeking approval of the innovation plan by the teachers who must approve the plan. The innovation plan shall describe the process for conducting the vote, including absentee voting. The innovation plan shall ensure that the process allows the teachers sufficient time to review and consider the plan before the vote. The applicant, the school district, and the local teacher's union shall coordinate to carry out the process described in the innovation plan. A teacher on approved leave from the school at the time of the election may vote in such election. A teacher who is retiring or who knows that he/she will not be employed at the school the following year shall not vote in such election. Two-thirds of votes cast by the teachers in that election shall be required to approve the plan.

(5) *Reporting requirement.* The superintendent of a sponsoring district must notify the Commissioner within 30 days of the sponsoring district school committee's authorization or re-authorization of an innovation school. The superintendent shall include a copy of the approved innovation plan in the notification to the Commissioner.

(6) Amendments to innovation plans. An applicant may amend an operating innovation plan during its 5-year authorization period. If the proposed amendment would directly affect the major autonomies established in the existing innovation plan, the applicant/operator must follow the innovation school approval process laid out in M.G.L. c.71, s.92(i)-(m), beginning with the innovation plan committee and continuing through to final school committee approval. In the case of any other revision to the plan, the applicant shall provide notice to the teachers and the district superintendent of the revision, and the district superintendent shall note the change in his/her annual evaluation of the innovation school, which shall be transmitted to the district school committee(s) and the Commissioner pursuant to M.G.L. c.71, s.92(n). Any proposed amendment to the operating innovation plan that would require a new waiver or exemption from the teacher contract shall be approved by teachers at the school, pursuant to M.G.L. c.71, s.92(l) and 603 CMR 48.04.

(67) *Failure by a school district to support an authorized innovation school.* The operators of an authorized innovation school who encounter any failure by a sponsoring district or districts to support the school, including, but not limited to, failure to provide the autonomies and flexibilities approved in the school's innovation plan, may petition the Commissioner for the selection of a mediator or an arbitrator. The Commissioner shall select a mediator or an arbitrator within 3 days from a list submitted by the parties. If a mediator is selected, the mediator shall conduct a mediation session with the parties within 14 days of his/her selection. If an arbitrator is selected, the arbitrator shall conduct a hearing within 14 days of his/her selection. If a mediator is selected, the mediator shall strive to reach a consensus consistent with the contents of the innovation plan developed by the applicant, and then notify the Commissioner of that resolution. If an arbitrator is selected, the arbitrator's decision shall be consistent with the contents of the innovation plan developed by the applicant. The arbitrator shall, within 14 days of the close of the hearing, submit a decision to the parties and the Commissioner that shall be final and binding on the parties. The costs of the mediation or arbitration shall be borne by the parties.

#### **48.05: Virtual Innovation Schools**

(1) *Enrollment.* The innovation plan for a virtual innovation school shall specify the manner in which a student may apply for admission to such school, and the criteria that will be used to select students for admission. A virtual innovation school may give preference in enrollment to students residing in the sponsoring district.

No school district or school shall compel a student to enroll in a virtual innovation school.

Students may not enroll directly in a virtual innovation school through the inter-district school choice program established under M.G.L. c.76, s.12B.

Nothing in 603 CMR 48.00 shall prohibit a virtual innovation school from enrolling out-of-state students pursuant to M.G.L. c.71, s.6A.

(2) *Enrollment limits.* The following enrollment limits shall apply to virtual innovation schools:

- a. Each school shall have a maximum enrollment of 500 students.
- b. For schools that have no admissions criteria other than grade level, at least 25% of the enrollment shall be from the sponsoring district.

- c. For schools where enrollment is targeted to serve a specialized student population, such as students with medical conditions that interfere with school attendance or students who have been temporarily or permanently excluded from public school attendance, at least 10% of the enrollment shall be from the sponsoring district.
- d. No district shall be required to pay tuition for students attending virtual innovation schools in other districts for more than 2% of its total district enrollment.
- e. Districts shall not be responsible for tuition payments for students enrolled in excess of these limits.
- f. If the virtual innovation school is established by the school committees of two or more districts, the combined enrollment of all sponsoring districts shall be used to calculate the limits imposed by 603 CMR 48.05(2)(b) and (c).

(3) *Curriculum, instruction and assessment.* The innovation plan for a virtual innovation school shall provide for:

- a. a curriculum aligned with the Massachusetts curriculum frameworks;
- b. administration of required state-wide assessments in a proctored environment consistent with test administration guidelines;
- c. student participation recordkeeping to monitor attendance and demonstrate compliance with the student learning time requirements in 603 CMR 27.00;
- d. student access to appropriate computer equipment, telecommunications services, and related technical support, to be provided by the sponsoring district as needed;
- e. student access to, and guidance on the use of, library and digital media resources;
- f. guidelines for age-appropriate oversight of student participation by parents, guardians, or other adults, along with appropriate training for such oversight.

(4) *Educators.* All educators leading classes or providing educational administration services in a virtual innovation school shall hold a current Massachusetts educator license appropriate to their assigned duties. Said educators may be employed through the sponsoring district, through another Massachusetts public school district, through an educational collaborative, or through a contract with an educational management organization. The school's innovation plan shall provide for periodic individual teacher conferences, via teleconference or in-person meetings, with students and students' parents or guardians.

(5) *Guidance services.* The school's innovation plan shall provide all enrolled students with appropriate access to guidance services, including but not limited to future school and career planning, monitoring of the student's overall academic progress, and facilitating student and

family support services as needed. Appropriate information and guidance shall also be provided to students considering enrolling in a virtual innovation school to assist in their decision.

(6) *Special education services.* The sponsoring district shall be responsible for the provision of all services required by the individualized education programs (IEPs) of students enrolled in a virtual innovation school.

(7) *Procurement of educational management services.* A sponsoring district may contract with an educational collaborative established pursuant to M.G.L. c.40, s.4E or with an external partner, including a for-profit or non-profit corporation for the provision of all or part of the instructional and technical services required for the operation of a virtual innovation school. Contracts with a for-profit or non-profit corporation, other than an educational collaborative, shall be subject to the procurement requirements of M.G.L. c.30B.

(8) *Funding.* The sponsoring district shall annually set the per pupil tuition rate for students enrolled in a virtual innovation school, provided that said rate shall not exceed the maximum tuition rate permitted under M.G.L. c.76, s.12B, and provided further that said rate shall apply to students residing in the sponsoring district and students residing in other Massachusetts districts. Tuition payments shall be prorated for students enrolled for less than a full year. In addition to said per pupil tuition rate, the costs of additional services required by a student under an individualized education program shall be paid by the student's home district pursuant to the provisions of 603 CMR 10.07. Tuition payments shall be made quarterly.

(9) *Reporting requirements.* Virtual innovation schools shall comply with all reporting requirements established by the Department for public schools, and shall also submit such reports specifically relating to virtual innovation schools as the Department may require. The Department shall establish a separate school code for each virtual innovation school, notwithstanding that the administration of said school may be part of or shared with another district school.