

**AUDIT COMMITTEE
Report No. 21-009**

17 February 2021

Regulatory Compliance

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PURPOSE:

1. To provide information on the processes and controls in place to ensure that the District is in compliance with key regulations and statutes.

CONTEXT:

2. One of the roles of the Audit Committee is to ensure that appropriate processes and controls are in place to make certain that the District is in compliance with statutes and regulations, and that processes are also in place to address areas of non-compliance.

While the regulatory compliance register is a living document, the register captures the key statutes and regulations of the 2019-2020 school year.

In an organization the size of the OCDSB, there will always be instances of non-compliance, however the monitoring of the register is designed to reduce the risk that such non-compliance will go uncorrected.

KEY CONSIDERATIONS:

3. Developing and operationalizing compliance procedures and processes occurs at the departmental level by staff that has the greatest understanding of the compliance requirements.

Regulatory compliance is achieved and monitored in the following ways:

- a. Through Ministry directives and policy/program memoranda (PPMs);
- b. Through formal District policies, procedures, standard operation directives and processes that staff must follow;
- c. Through various levels of supervisory and management oversight of the work performed within the District;
- d. Through self-regulations as many staff members are bound by their professional standards and their professional code of ethics;
- e. Through staff training and certifications which includes in-depth knowledge of the regulatory requirements in their area of work/responsibility; and
- f. Orders to comply, fines, penalties, tribunal or judicial reviews by external agencies with oversight responsibility in their respective areas.

Attached as Appendix A is a memorandum to the Audit Committee confirming that the District has operational processes and practices in place to ensure substantial compliance with key statutory and regulatory requirements in most areas.

Managers in the District have provided an attestation to their respective superintendents that for the 2019-2020 school year, to the best of their knowledge, their department is in compliance with statutory and regulatory requirements. Where partial compliance or non-compliance is identified by the manager, it is documented, including the actions that are being taken to ensure substantial compliance. For example, at any given time, staff may be in the process of writing, updating or implementing new processes to meet the ever-changing statutes or regulatory requirements, or responding to immediate gaps that have been identified either internally or externally through the respective compliance mechanisms, i.e., Ministry of Labour (MOL) inspections, Technical Standards & Safety Authority (TSSA) inspections, Electrical Safety Authority (ESA) inspections, etc.

Considering that 2020 was a challenging year, most of the work on achieving full compliance was put on hold. The following are some examples of areas where departments are still working on developing processes and controls to achieve full compliance:

- a. One area identified by Supply Chain Management (SCM) staff as having substantial compliance is the Comprehensive Economic and Trade Agreement (CETA) and Canadian Free Trade Agreement (CFTA). SCM staff is working on updating the relevant District policies and procedures for alignment with the trade agreements. The implementation of an e-bidding portal to receive submissions electronically is now operational and in compliance with the trade agreements;
- b. Under the *Waste Diversion Act*, there is an expectation that school districts will achieve a 50% diversion rate. Only partial compliance has been achieved to date as all schools do not actively participate in a recycling program;
- c. Under the *Education Act* a plan had been developed in the 2019-2020 school year to re-establish compliance with the requirements related to the completion schedule for teacher, principal and vice-principal performance appraisals (TPAs). However, due to increasing demands faced by school-based administrators, the Ministry provided direction that TPAs would be paused for the remainder of the 2020-2021 school year;
- d. With respect to the *Accessibility for Ontarians with Disabilities Act* (AODA), some new staff members had not been trained as required. An online training module with enhanced Human Rights content was developed and was rolled out to all staff, including new employees. HR staff are in the process of reviewing their training database to ensure that all staff hired in September 2020 have completed this training and following up where necessary;
- e. Under the *Fire Prevention and Protection Act* - Staff are working closely with Ottawa Fire Services to update fire safety plans at every OCDSB facility, but only a portion have been approved resulting in partial

- compliance. The current situation with COVID-19 has slowed the process of both the OCDSB and Ottawa Fire Services; and
- f. With respect to *the Occupational Health & Safety (OH&S) Act* - Due to school closures and the shift to remote learning, monthly inspections were not conducted at all sites, although an inspection was conducted at all sites prior to the return to school in September 2020. OH&S staff in consultation with the Joint Health and Safety Committee (JHSC) continue to work on ensuring alternative strategies and measures are in place in the event that the identified worksite safety representative at a particular site is unable to complete the monthly inspections.

In staff's opinion, it is impossible to know, with certainty that all District staff are in compliance with all statutory and regulatory requirements at all times; however, by requiring an annual departmental identification of new statutes and regulations and by reviewing existing key statutory and regulatory requirements, staff is reminded of their responsibilities under a statute or regulation. This allows for the review of District processes and controls in place to become substantially compliant with the legislation, and for the identification of any non-compliance and subsequent corrective action.

It is the responsibility of superintendents to monitor proposed departmental work plans and timelines to ensure compliance is achieved in a timely manner, and corrective action is taken where required.

As the regulatory landscape is continually changing, staff is constantly working on processes and controls to achieve compliance. The annual review satisfied staff that there are substantial processes in place to provide direction on compliance, monitor compliance and for follow-up where non-compliance is suspected.

RESOURCE IMPLICATIONS:

4. The District continues to see increasing demands for accountability and regulatory compliance. While staff is committed to providing safe and healthy learning environments for students, it should also be noted that trying to achieve compliance with the increasing levels of regulation is creating extensive demands on resources, both financial and human.

Although the District has not encountered any financial penalties as a result of non-compliance in recent years, statutory or regulatory non-compliance can result in significant fines or penalties.

COMMUNICATION/CONSULTATION ISSUES:

5. Communication has occurred with individual departmental managers to gather and understand their regulatory requirements and the associated processes and controls that are in place to achieve compliance.

STRATEGIC LINKS:

6. The 2019-2023 Strategic Plan pillar of developing a culture of social responsibility and improved governance practices is achieved when regulatory compliance is reviewed and updated on an annual basis thereby building capacity in risk management.

GUIDING QUESTIONS:

7. The following question is provided to support the discussion of this item by the Committee:
 - Does this annual compliance report satisfy the Audit Committee's objective of ensuring the effectiveness of the District's system for monitoring statutory and regulatory compliance?

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Camille Williams-Taylor
Director of Education and
Secretary of the Board

APPENDICES

Appendix A - Regulatory Compliance Memorandum