

## ONTARIO REGULATION 361/10 - AUDIT COMMITTEES

**Consolidation Period:** From September 10, 2010 to the [e-Laws currency date](#).

No amendments.

*This is the English version of a bilingual regulation.*

### Interpretation

**1. (1)** This Regulation applies in respect of audit committees established by district school boards under subsection 253.1 (1) of the Act. O. Reg. 361/10, s. 1 (1).

**(2)** In this Regulation,

“external auditor” means an auditor appointed by a board under subsection 253 (1) of the Act to perform the duties referred to in subsection 253 (4) of the Act; (“vérificateur externe”)

“internal auditor” means a contractor or employee of a board who examines and evaluates a board’s records and procedures related to the board’s risk management, internal controls and governance processes and makes recommendations on ways to improve the board’s risk management, internal controls and governance processes; (“vérificateur interne”)

“reporting entity” means, with respect to a board, an organization that is required to prepare reports for the purposes of the board regarding the organization’s financial affairs and resources; (“entité comptable”)

“senior business official” means a senior business official described in subsection 3 (2) of Regulation 309 of the Revised Regulations of Ontario, 1990 (Supervisory Officers) made under the Act. (“cadre supérieur de l’administration des affaires”) O. Reg. 361/10, s. 1 (2).

### Establishment of audit committee

**2. (1)** Subject to subsection (3), every board shall establish an audit committee in accordance with this Regulation no later than January 31, 2011. O. Reg. 361/10, s. 2 (1).

**(2)** The first meeting of an audit committee established under subsection (1) shall be held no later than March 31, 2011. O. Reg. 361/10, s. 2 (2).

**(3)** A board established after the day this Regulation comes into force shall establish an audit committee in accordance with this Regulation no later than October 1 of the school year following the calendar year in which the board’s members are first elected. O. Reg. 361/10, s. 2 (3).

**(4)** The first meeting of an audit committee established under subsection (3) shall be held no later than December 1 of the school year following the calendar year in which the board’s members are first elected. O. Reg. 361/10, s. 2 (4).

### Composition of audit committee

**3. (1)** An audit committee of a board shall consist of the following individuals appointed in accordance with the board’s by-laws:

1. If the board has fewer than eight board members, the audit committee shall consist of four members, including two board members and two persons who are not board members.
2. If the board has eight or more board members, but less than fifteen, the audit committee shall consist of five members, including three board members and two persons who are not board members.

3. If the board has fifteen or more board members, the audit committee shall consist of seven members, including four board members and three persons who are not board members. O. Reg. 361/10, s. 3 (1).

(2) In the absence of a by-law setting out an appointment process, the board shall appoint the members of the audit committee in accordance with paragraphs 1, 2 and 3 of subsection (1). O. Reg. 361/10, s. 3 (2).

(3) If the number of persons required by paragraphs 1, 2 and 3 of subsection (1) is not appointed to the audit committee, the Minister may appoint a person to each vacant position. O. Reg. 361/10, s. 3 (3).

(4) A person appointed under subsection (3) holds the position until the board appoints another person to the position. O. Reg. 361/10, s. 3 (4).

(5) An appointment made under subsection (3) must comply with paragraphs 1, 2 and 3 of subsection (1) and section 4. O. Reg. 361/10, s. 3 (5).

#### **Eligibility for appointment of persons who are not board members**

4. (1) A person who is not a board member is eligible to be appointed to the board's audit committee only if he or she,

- (a) has accounting, financial management or other relevant business experience that would enable him or her to understand the accounting and auditing standards applicable to the board;
- (b) is not an employee or officer of the board or of any other board at the time of his or her appointment;
- (c) does not have a conflict of interest, as described in subsection (2), at the time of his or her appointment; and
- (d) was identified by the selection committee described in section 5 as a potential candidate for appointment to the audit committee. O. Reg. 361/10, s. 4 (1).

(2) For the purposes of clause (1) (c), a person has a conflict of interest if his or her parent, child or spouse is employed by the board. O. Reg. 361/10, s. 4 (2).

(3) Clause (1) (d) does not apply if the person is appointed by the Minister under subsection 3 (3). O. Reg. 361/10, s. 4 (3).

#### **Selection committee**

5. (1) Each board shall have a selection committee for the purpose of identifying persons who are not board members as potential candidates for appointment to the board's audit committee. O. Reg. 361/10, s. 5 (1).

(2) The selection committee shall be composed of,

- (a) the board's director of education;
- (b) a senior business official of the board; and
- (c) the chair of the board or a board member designated by the chair. O. Reg. 361/10, s. 5 (2).

#### **Chair of the audit committee**

6. (1) At the first meeting of the audit committee in each fiscal year, the members of the committee shall elect the chair of the committee for the fiscal year of the board from among the board members appointed to the committee. O. Reg. 361/10, s. 6 (1).

(2) If at any meeting of the audit committee the chair is not present, the members present may elect a chair for that meeting. O. Reg. 361/10, s. 6 (2).

### **Term of appointment**

**7. (1)** The term of office of a member of the audit committee who is a board member shall be determined by the board but shall not exceed four years. O. Reg. 361/10, s. 7 (1).

**(2)** The term of office of a member of the audit committee who is not a board member shall be determined by the board but shall not exceed three years. O. Reg. 361/10, s. 7 (2).

**(3)** Subject to subsection (4), a member of the audit committee may be reappointed. O. Reg. 361/10, s. 7 (3).

**(4)** An individual who is not a board member may not be appointed to the audit committee more than twice unless,

(a) the board advertised the position for at least 30 days; and

(b) after the 30 days, the selection committee did not identify any potential candidates. O. Reg. 361/10, s. 7 (4).

**(5)** When the term of a member of the audit committee expires, he or she continues to be a member until a successor is appointed or the member is reappointed. O. Reg. 361/10, s. 7 (5).

### **Vacancies**

**8. (1)** A member who is a board member vacates his or her position on the audit committee if,

(a) he or she is convicted of an indictable offence; or

(b) he or she is absent from two consecutive regular meetings of the committee and the committee has not authorized those absences by a resolution at the first regular meeting of the committee that follows the second absence. O. Reg. 361/10, s. 8 (1).

**(2)** A member who is not a board member vacates his or her position on the audit committee if,

(a) he or she is convicted of an indictable offence;

(b) he or she is absent from two consecutive regular meetings of the committee and the committee has not authorized those absences by a resolution at the first regular meeting of the committee that follows the second absence;

(c) he or she becomes an employee or officer of the board or of any other board; or

(d) it is discovered that he or she had a conflict of interest as described in subsection 4 (2) at the time of his or her appointment and failed to disclose it. O. Reg. 361/10, s. 8 (2).

**(3)** Despite any by-law of a board, if a position on the audit committee becomes vacant, the position shall be filled as soon as possible in accordance with this Regulation. O. Reg. 361/10, s. 8 (3).

**(4)** A person who is appointed to fill a vacancy shall hold the position for the remainder of the term of the member whose position became vacant. O. Reg. 361/10, s. 8 (4).

### **Duties of an audit committee**

**9. (1)** An audit committee of a board has the following duties related to the board's financial reporting process:

1. To review with the director of education, a senior business official and the external auditor the board's financial statements, with regard to the following:
  - i. Relevant accounting and reporting practices and issues.
  - ii. Complex or unusual financial and commercial transactions of the board.
  - iii. Material judgments and accounting estimates of the board.
  - iv. Any departures from the accounting principles published from time to time by the Canadian Institute of Chartered Accountants that are applicable to the board.
2. To review with the director of education, a senior business official and the external auditor, before the results of an annual external audit are submitted to the board,
  - i. the results of the annual external audit,
  - ii. any difficulties encountered in the course of the external auditor's work, including any restrictions or limitations on the scope of the external auditor's work or on the external auditor's access to required information,
  - iii. any significant changes the external auditor made to the audit plan in response to issues that were identified during the audit, and
  - iv. any significant disagreements between the external auditor and the director of education or a senior business official and how those disagreements were resolved.
3. To review the board's annual financial statements and consider whether they are complete, are consistent with any information known to the audit committee members and reflect accounting principles applicable to the board.
4. To recommend, if the audit committee considers it appropriate to do so, that the board approve the annual audited financial statements.
5. To review with the director of education, a senior business official and the external auditor all matters that the external auditor is required to communicate to the audit committee under generally accepted auditing standards.
6. To review with the external auditor material written communications between the external auditor and the director of education or a senior business official.
7. To ask the external auditor about whether the financial statements of the board's reporting entities, if any, have been consolidated with the board's financial statements.
8. To ask the external auditor about any other relevant issues. O. Reg. 361/10, s. 9 (1).

(2) An audit committee of a board has the following duties related to the board's internal controls:

1. To review the overall effectiveness of the board's internal controls.
2. To review the scope of the internal and external auditor's reviews of the board's internal controls, any significant findings and recommendations by the internal and external auditors and the responses of the board's staff to those findings and recommendations.

3. To discuss with the board's officials the board's significant financial risks and the measures the officials have taken to monitor and manage these risks. O. Reg. 361/10, s. 9 (2).

(3) An audit committee of a board has the following duties related to the board's internal auditor:

1. To review the internal auditor's mandate, activities, staffing and organizational structure with the director of education, a senior business official and the internal auditor.
2. To make recommendations to the board on the content of annual or multi-year internal audit plans and on all proposed major changes to plans.
3. To ensure there are no unjustified restrictions or limitations on the scope of the annual internal audit.
4. To review at least once in each fiscal year the performance of the internal auditor and provide the board with comments regarding his or her performance.
5. To review the effectiveness of the internal auditor, including the internal auditor's compliance with the document *International Standards for the Professional Practice of Internal Auditing*, as amended from time to time, published by The Institute of Internal Auditors and available on its website.
6. To meet on a regular basis with the internal auditor to discuss any matters that the audit committee or internal auditor believes should be discussed.
7. To review with the director of education, a senior business official and the internal auditor,
  - i. significant findings and recommendations by the internal auditor during the fiscal year and the responses of the board's staff to those findings and recommendations,
  - ii. any difficulties encountered in the course of the internal auditor's work, including any restrictions or limitations on the scope of the internal auditor's work or on the internal auditor's access to required information, and
  - iii. any significant changes the internal auditor made to the audit plan in response to issues that were identified during the audit. O. Reg. 361/10, s. 9 (3).

(4) An audit committee of a board has the following duties related to the board's external auditor:

1. To review at least once in each fiscal year the performance of the external auditor and make recommendations to the board on the appointment, replacement or dismissal of the external auditor and on the fee and fee adjustment for the external auditor.
2. To review the external auditor's audit plan, including,
  - i. the external auditor's engagement letter,
  - ii. how work will be co-ordinated with the internal auditor to ensure complete coverage, the reduction of redundant efforts and the effective use of auditing resources, and
  - iii. the use of independent public accountants other than the external auditor of the board.

3. To review and confirm the independence of the external auditor.
4. To meet on a regular basis with the external auditor to discuss any matters that the audit committee or the external auditor believes should be discussed.
5. To resolve any disagreements between the director of education, a senior business official and the external auditor about financial reporting.
6. To recommend to the board a policy designating services that the external auditor may perform for the board and, if the board adopts the policy, to oversee its implementation. O. Reg. 361/10, s. 9 (4).

(5) An audit committee of a board has the following duties related to the board's compliance matters:

1. To review the effectiveness of the board's system for monitoring compliance with legislative requirements and with the board's policies and procedures, and where there have been instances of non-compliance, to review any investigation or action taken by the board's director of education, supervisory officers or other persons employed in management positions to address the non-compliance.
2. To review any significant findings of regulatory entities, and any observations of the internal or external auditor related to those findings.
3. To review the board's process for communicating any codes of conduct that apply to board members or staff of the board to those individuals and the board's process for administering those codes of conduct.
4. To obtain regular updates from the director of education, supervisory officers and legal counsel regarding compliance matters.
5. To obtain confirmation by the board's director of education and supervisory officers that all statutory requirements have been met. O. Reg. 361/10, s. 9 (5).

(6) An audit committee of a board has the following duties related to the board's risk management:

1. To ask the board's director of education, a senior business official, the internal auditor and the external auditor about significant risks, to review the board's policies for risk assessment and risk management and to assess the steps the director of education and a senior business official have taken to manage such risks, including the adequacy of insurance for those risks.
2. To perform other activities related to the oversight of the board's risk management issues or financial matters, as requested by the board.
3. To initiate and oversee investigations into auditing matters, internal financial controls and allegations of inappropriate or illegal financial dealing. O. Reg. 361/10, s. 9 (6).

(7) An audit committee of a board shall report to the board annually, and at any other time that the board may require, on the committee's performance of its duties. O. Reg. 361/10, s. 9 (7).

(8) An audit committee shall make all reasonable efforts to ensure that a copy of this Regulation is posted on the board's website. O. Reg. 361/10, s. 9 (8).

#### **Powers of an audit committee**

10. In carrying out its functions and duties, an audit committee of a board has the power to,

- (a) with the prior approval of the board, retain counsel, accountants or other professionals to advise or assist the committee;
- (b) meet with or require the attendance of board members, the board's staff, internal or external auditor or legal counsel or representatives from a reporting entity of the board at meetings of the committee, and require such persons or entities to provide any information and explanation that may be requested;
- (c) where the committee determines it is appropriate, meet with the board's external or internal auditor, or with any staff of the board, without the presence of other board staff or board members, other than board members who are members of the committee;
- (d) require the board's internal or external auditor to provide reports to the committee; and
- (e) have access to all records of the board that were examined by the internal or external auditor. O. Reg. 361/10, s. 10.

### **Meetings**

**11. (1)** An audit committee of a board shall meet at least three times in each fiscal year at the call of the chair of the committee, and at such other times as the chair considers advisable. O. Reg. 361/10, s. 11 (1).

**(2)** The first meeting of the audit committee in each fiscal year after the 2011 year shall take place no later than September 30. O. Reg. 361/10, s. 11 (2).

**(3)** Each member of the audit committee has one vote. O. Reg. 361/10, s. 11 (3).

**(4)** The audit committee shall make decisions by resolution. O. Reg. 361/10, s. 11 (4).

**(5)** In the event of a tie vote, the chair is entitled to cast a second vote. O. Reg. 361/10, s. 11 (5).

**(6)** A majority of the members of the audit committee that includes at least one member who is not a board member constitutes a quorum for meetings of the committee. O. Reg. 361/10, s. 11 (6).

**(7)** The chair of the audit committee shall ensure that minutes are taken at each meeting and provided to the members of the committee before the next meeting. O. Reg. 361/10, s. 11 (7).

**(8)** Despite subsection (1), an audit committee of a board is required to meet only twice during the 2010-2011 fiscal year. O. Reg. 361/10, s. 11 (8).

### **Codes of Conduct**

**12.** Any code of conduct of the board that applies to board members also applies to members of the audit committee who are not board members in relation to their functions, powers and duties as members of the committee. O. Reg. 361/10, s. 12.

### **Remuneration and compensation**

**13. (1)** A person shall not receive any remuneration for serving as a member of the audit committee. O. Reg. 361/10, s. 13 (1).

**(2)** Subsection (1) does not preclude payment of an honorarium under section 191 of the Act that takes into account the attendance of a board member at an audit committee meeting. O. Reg. 361/10, s. 13 (2).

**(3)** A board shall establish policies respecting the reimbursement of members of its audit committee for expenses incurred as members of the committee. O. Reg. 361/10, s. 13 (3).



[\(4\)](#) A board shall reimburse members of its audit committee for expenses incurred as members of the committee in accordance with the policies referred to in subsection (3). O. Reg. 361/10, s. 13 (4).

### **Declaration of conflicts**

[14. \(1\)](#) Every member of an audit committee shall, when he or she is appointed to the committee for the first time and at the first meeting of the committee in each fiscal year, submit a written declaration to the chair of the committee declaring whether he or she has a conflict of interest as described in subsection 4 (2). O. Reg. 361/10, s. 14 (1).

[\(2\)](#) A member of an audit committee who becomes aware after his or her appointment that he or she has a conflict of interest, as described in subsection 4 (2), shall immediately disclose the conflict in writing to the chair. O. Reg. 361/10, s. 14 (2).

[\(3\)](#) If a member or his or her parent, child or spouse could derive any financial benefit relating to an item on the agenda for a meeting, the member shall declare the potential benefit at the start of the meeting and withdraw from the meeting during the discussion of the matter and shall not vote on the matter. O. Reg. 361/10, s. 14 (3).

[\(4\)](#) If no quorum exists for the purpose of voting on a matter only because a member is not permitted to be present at the meeting by reason of subsection (3), the remaining members shall be deemed to constitute a quorum for the purposes of the vote. O. Reg. 361/10, s. 14 (4).

[\(5\)](#) If a potential benefit is declared under subsection (3), a detailed description of the potential benefit declared shall be recorded in the minutes of the meeting. O. Reg. 361/10, s. 14 (5).

### **Reporting**

[15. \(1\)](#) An audit committee of a board shall submit to the board on or before a date specified by the board an annual report that includes,

- (a) any annual or multi-year audit plan of the board's internal auditor;
- (b) a description of any changes made to a plan referred to in clause (a) since the last report of the committee;
- (c) a summary of the work performed by the internal auditor since the last annual report of the committee, together with a summary of the work the auditor expected to perform during the period, as indicated in the plan referred to in clause (a); and
- (d) a summary of risks identified and findings made by the internal auditor.  
O. Reg. 361/10, s. 15 (1).

[\(2\)](#) A board who receives a report under subsection (1) shall submit a copy of it to the Minister in each fiscal year on or before a date specified by the Minister. O. Reg. 361/10, s. 15 (2).

[\(3\)](#) An audit committee of a board shall submit a report to the board in each fiscal year on or before a date specified by the board, and at any other time as may be requested by the board, that includes,

- (a) a summary of the work performed by the committee since the last report;
- (b) an assessment by the committee of the board's progress in addressing any findings and recommendations that have been made by the internal or external auditor;
- (c) a summary of the matters addressed by the committee at its meetings;
- (d) the attendance record of members of the committee; and



(e) any other matter that the committee considers relevant. O. Reg. 361/10, s. 15  
(3).

[16.](#) Omitted (provides for coming into force of provisions of this Regulation).  
O. Reg. 361/10, s. 16.