

## **Obligations under the *Accessibility for Ontarians with Disabilities Act* – What you need to know now**

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As of January 1, 2012 all organizations and employers in Ontario who have one employee and provide goods and services to the public will need to be in compliance with the *Accessibility for Ontarians with Disabilities Act* (the "AODA"). This is part of the ongoing implementation of various standards under the AODA.

The AODA has actually been in force since 2005 with phased in implementation. This legislation puts in place various standards with the stated goal of the removal and prevention of barriers to accessibility to the public to goods and services. The Customer Service Standard is the first standard to be implemented under the AODA. Compliance is being implemented in stages and the next deadline for compliance is January 1, 2012 for the private sector. Public sector compliance for designated public sector organizations which includes Ministries and Ontario municipalities for the Customer Service Standard was January 2010.

### **Who needs to comply?**

If your organization employs at least one employee in Ontario and provides services or goods to the public this applies to your organization. The exception to this general rule is that federally regulated employers are exempt from compliance.

### **What is the standard?**

The Customer Service Standard addresses how an organization interacts with disabled persons. This Standard has an outward focus and does not apply to goods or services provided by an organization internally. The Standard applies to the external provision of your goods or services – to your customers.

In summary you need to identify and address barriers to such individuals accessing your goods and/or services. A barrier is anything that keeps someone from participating due to their disability and can be visible or invisible.

### **What does "disability" mean under this legislation?**

Disability is broadly defined and is given the same definition as the one found in the *Ontario Human Rights Code* which includes physical, mental and learning disabilities and includes temporary disabilities. This is a broad definition:

- any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device
- a condition of mental impairment or a developmental disability

- a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language
- a mental disorder, or
- an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997 (“handicap”).

### **Steps to compliance:**

Compliance requires the following key steps by your organization:

- Establish policies, practices and procedures on providing goods or services to people with a disability.
- If your organization has 20 or more employees you must document your policies in writing, make same available for the public in an accessible format and file annual accessibility reports which can be completed online.
- Adopt an assistive devices policy.
- Address the use of service animals by persons with a disability.
- Ensure that your communications take into account the disability of the person with whom you are communicating.
- Ensure you have a procedure to advise of temporary disruption of facilities/services for persons with a disability.
- Have a formal process for feedback on your policies and procedures and a process for response to feedback or concerns from the public.
- Train your employees on how to serve your customers with disabilities.

Use all reasonable efforts to ensure that your policies and processes are consistent with the core principles which are:

- independence,
- dignity,
- integration, and
- equality of opportunity.

After familiarizing yourself with the *AODA* the next step is to review your organization to customize your processes and procedures. Consider the various types of disabilities that can arise and your goods or services and how you can best address provision of your goods or services in the context of your organization. In your review process use examples to highlight barriers and address removal of those barriers. Consider your physical premises, your documentation, your processes in interacting with the public.

There is no one size fits all solution. Examples of the ways to provide accessibility range from the lowering of a counter to ensuring online registration documents are compatible with software to assist the viewing of documents by the visually impaired. Alternatives need to be considered such as the option for personal assistance to complete an application.

Considering the needs of disabled persons is required to ensure that barriers, visible and invisible, intentional or not, are addressed in a proactive way. The requirement is that of reasonable efforts not a standard of perfection.

Training your employees is an integral component of your program. You must also consider all others in your organization who interact with your customers. For example, make sure to include your volunteers or temporary employees. The training should focus on how to interact with persons with various disabilities and how to address concerns raised by a customer in this context and how to address barriers they may become aware of before you have a complaint.

### **How is the AODA enforced?**

Inspections, compliance orders and administrative and monetary penalties are all provided for in the *AODA*. Inspectors have broad powers of entry and inspection. The Licence Appeal Tribunal is designated as having responsibility for hearing *AODA* appeals from organizations. Fines may be levied for non compliance. Individuals who believe they have been the subject of discriminatory treatment in the provision of goods or services will continue to have recourse through the Ontario Human Rights Tribunal.

### **What does the future hold?**

Accessibility standards in employment are pending and compliance timeframes for private organizations start in 2016. These standards will require employers to proactively identify and take steps to prevent and remove barriers to employment to people with disabilities. These changes are in addition to existing obligations of employers in regarding to discriminatory conduct and accommodation of employees with disability in the workplace.

The time is now to start your process to ensure you are in compliance January 1, 2012.

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