



# Accessibility Standards Training Manual

- **Accessible Customer Service Standard, Ontario Regulation 429/07**
- **Integrated Accessibility Regulation, Ontario Regulation 191/11**
- **Ontario Human Rights Code as it relates to Disability**



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# Whitby Public Library Statement of Commitment

The Whitby Public Library is committed to providing an accessible environment in which library patrons, visitors, and employees have equitable access to programs, services, and facilities in a way that respects the dignity and independence of each individual. The library is dedicated to ensuring that all legislated obligations under the Accessibility for Ontarians Disabilities Act are met and that compliance with these standards is maintained.

## Purpose of this Training Manual

The Province of Ontario requires that all libraries train all staff, volunteers and those doing business on their behalf. Training includes:

- Accessible Customer Service;
- Integrated Accessibility Standards Regulation; and
- Ontario Human Rights Code as it relates to Disabilities.

This manual has been created to provide training to volunteers and casual part-time staff members.

It is also a reference guide for all staff who have received more in-depth training related to their positions.

For further information or questions about this training material, please contact Rhonda Jessup, Public Services Manager at 905-668-6531 X2033 or [rjessup@whitbylibrary.on.ca](mailto:rjessup@whitbylibrary.on.ca)

# Understanding accessibility

## What is accessibility?

It simply means giving people of all abilities opportunities to participate fully in everyday life.

### Why Accessibility is good for Ontario

**ac'ces'si'bil'i'ty** [ak-ses-uh-bihleete] noun  
Accessibility simply means giving people of all abilities opportunities to participate fully in everyday life.

**now** → **soon**

**1 in 7** people in Ontario have a disability, that's **1.85 million Ontarians**.

By 2036, that number will rise to **1 in 5** as the population ages.

**Customers with disabilities are a growing market no business can afford to overlook.**

**360,000** Ontario businesses and organizations affected by Ontario's accessibility law. It helps them meet the needs of people with disabilities and **attract their growing spending power.**

In the next 20 years, an aging population and people with disabilities will represent **40% of total income in Ontario** — that's **\$536 Billion**.

**A more accessible Ontario is good for our economy and our communities.**

Improved accessibility in Ontario can help generate up to:  
**\$9.6 Billion** in new retail spending & **\$1.6 Billion** in new tourism spending

How may I help you?

## **Making Ontario Accessible**

Since passing the Accessibility for Ontarians with Disabilities Act, 2005, Ontario has created and begun to implement province-wide, mandatory accessibility standards in five key areas of everyday life. These standards will help create inclusion for everyone in Ontario, regardless of their abilities, so they can reach their full potential. The goal is to make Ontario accessible for people with disabilities by 2025.

### **Customer Service Standard**

Accessible customer service is not about ramps or automatic door openers. It's about understanding that people with disabilities may have different needs. It can be as easy as asking "How can I help?" and making small changes to how you serve customers with disabilities.

### **Accessibility Standard for Information and Communications**

The Accessibility Standard for Information and Communications will help people with disabilities access more sources of information that many of us rely on every day. This includes websites, public libraries, textbooks, and public safety information.

### **Accessibility Standard for Employment**

The Accessibility Standard for Employment will help employers support and keep more skilled employees. It will make accessibility a normal part of finding, hiring and communicating with employees who have disabilities.

### **Accessibility Standard for Transportation**

The Accessibility Standard for Transportation focuses on making transportation services accessible. This includes buses (including public and school buses), trains, subways, streetcars, taxis and ferries.

### **Accessibility Standards for Built Environment**

The Accessibility Standards for the Built Environment focus on removing barriers in two areas:

1. Design of Public spaces, and
2. Ontario Building Code for interior to Buildings.

# **Accessible Customer Service, Ontario Regulation 429/07**

## **Principles of Good Customer Service**

Make sure you treat everyone with:

- Dignity
- Independence
- Integration
- Equality of opportunity

## **Everyone is Responsible to:**

- Identify and remove barriers to service
- Take time to understand the needs of your customer - Ask how can I help?
- Work with the person with a disability to find the best solution to providing them good customer service

## **General Tips for Serving Customers with Disabilities**

- "May I help you?"
- Speak directly to your customer
- Don't make assumptions
- Take time to know your customer's needs
- All customers have a range of needs and preferences
- If you can't understand what your customer is saying, politely ask him or her to repeat it
- You may want to ask if the information you are conveying needs to be repeated. Ask: "Do you understand this?"
- Exercise patience

## **If there are difficulties accessing your Services?**

- Be flexible
- Ask: "May I help you?"
- Solicit suggestions
- Offer to communicate via pen & paper
- Retrieve out of reach products
- Confirm that needs are met



## **Types of disabilities:**

There are many different types of disabilities, what is most important to remember is that you are dealing with a person. The following information was provided by the Province as suggestions to provide good customer service to people who have different types of disabilities.

### **Customers who are deaf & hard of hearing**

- Politely attract the customer's attention before speaking to them
- Don't shout
- Make sure you are in a well-lit area where the customer can see your face
- If the person uses a hearing aid, reduce background noise or offer to move to a quieter area

### **Customers who are deafblind**

- Most often this customer will be accompanied by an intervenor, who is someone trained to communicate with the customer and relay information between the customer and you the staff person
- It is important to remember to speak directly to your customer, not the intervenor
- Identify yourself to the intervenor when you approach your customer who is deafblind
- A customer who is deafblind is likely to explain to you how to communicate to them

### **Customers with intellectual or developmental disabilities**

- Don't assume what a person can or cannot do
- Use plain language
- Make sure your customer understands you. You can be direct and politely ask: "Do you understand this?"
- Provide one piece of information at a time
- You may want to ask if the information needs to be repeated

## Customers with learning disabilities

- Take some time – it may take longer for the customer to process the information you are providing
- Provide information in a way that works for your customer. For example, you may want to keep a pen and paper handy
- Be prepared to explain any materials you provide to your customer

## Customers with speech or language impairments

- English as a second language is not considered to be a disability; language disabilities include stuttering, speech impediments, comprehension difficulties, etc.
- Don't assume that just because a person has this disability, they also have another
- Give your customer whatever time they need to get their point across
- Ask questions that can be answered "yes" or "no", if possible
- Don't interrupt or finish your customer's sentences. Wait for them to finish

## Customers with vision loss

- Don't assume the person can't see you, many people can see shadows and outlines
- Identify yourself when you approach the customer and speak directly to him or her
- Offer your elbow to guide the person, do not take the person by the arm; if they accept, walk slowly
- Identify landmarks or details to orient your customer to the environment around them
- If you are giving directions or providing information, be precise and descriptive
- Don't leave your customer in the middle of the room. Guide them to a chair or comfortable location. Don't walk away without saying good-bye





## **Customers with physical disabilities or disabilities affecting mobility**

- Ask before you help
- Respect your customer's personal space
- Don't move items, such as canes or walkers, out of the person's reach
- If you have permission to move a person in a wheelchair, remember make sure the person is ready to be moved
- In some situations, inform your customer about accessible features in the immediate environment (automatic door openers, accessible washrooms, elevators, ramps, etc.)

## **Personal assistive devices**

- Assistive devices are part of people's personal space
- Respect personal space by asking if someone needs assistance before assuming they do
- Know how to operate any assistive devices your organization provides. For example, TTY or Relay Service, Keyboard, pen & paper, pointing device, hearing amplification devices, automatic door openers



## **Customers with mental health disabilities**

- Be confident and reassuring. As with all customers, listen carefully and focus on meeting the customer's needs
- If a person appears to be in crisis, ask them to tell you the best way to help them
- If a customer appears to show signs of a mental health disability, it may be helpful to keep in mind that the customer's reactions are not connected to you personally
- 1 in 5 Canadians are likely to experience a diagnosable mental illness, & 3% are likely to live with a serious mental illness (Canadian Mental Health Association)

## Customers with service animals

- It is important to never touch a service animal, they are a working animal and touching them could distract them from doing their job
- Service animals are allowed anywhere customers normally have access
- Service animals are helping people with:
  - Vision loss
  - Hearing
  - Autism
  - Mental health disabilities
  - To alert an individual to an oncoming seizure
  - Physical disabilities
  - Other disabilities



## Customers with support persons

- **Good practice tip:** check with the customer about support person's presence when confidential matters are discussed
- If the customer requests the support person's assistance, they must be allowed to accompany individual
- Who is the support person?
  - Personal support worker
  - Family member
  - Volunteer
  - Friend

## Other conditions and temporary disabilities

- It is important to remember there are a number of other conditions that are considered disabilities that might not be visible, such as: asthma, cancer, diabetes, etc.
- There are also temporary disabilities such as: someone who has had surgery or an injury

## Everyone is Responsible to:

- Identify and remove barriers to service
- Take time to understand the needs of your customer - Ask how can I help?
- Work with the person with a disability to find the best solution to providing them good customer service

## Notices of Service Disruptions:

We are required to notify the public and staff of planned or emergency service disruptions. For example, an elevator out of service, a sidewalk under construction, an office being closed, etc.

Requirements for notices:

- Notify a reasonable time in advance
- Post notifications in obvious locations
- Make notifications visible
- Note why the service is not available
- Give anticipated duration
- Identify alternate facilities or services available



Where to post notices:

- In advance on a website, in a window or door
- Pre-recorded information on telephone system
- Inserts sent in mail with regular correspondence

Alternative service options to include on notices:

- Information and map to nearest alternate location
- Information on other service delivery modes

## Feedback

We must have a process to accept feedback readily available to our customers. Including what actions the organization will take with the feedback. Feedback should be able to be received in many different formats, including:

- Hardcopy
- Telephone
- Website or E-mail

# Integrated Accessibility Standards, Ontario Regulation 191/11

## General Requirements

### 1. Who must comply with the Regulation?

The regulation applies to all public, private and not-for-profit organizations with at least **one** employee in Ontario, and that provide goods, services, or facilities.

### 2. The Training Requirement

Organizations must provide training on the requirements of the regulation as it relates to a person's duties, and on the Ontario Human Rights Code as it relates to people with disabilities.

It is up to you to determine what information applies to your position and to put it into practice.

### 3. Accessibility policies

Organizations must develop accessibility policies describing what they do, or intend to do, to meet the requirements of the regulation. These policies serve as rules that guide your organization's everyday practices. The following are policies for the Whitby Public Library have been updated or created:

- Accessible Customer Service
- Accessible Formats and Communication Supports
- Program Policy
- Visiting Library Service
- Website Policy
- Procurement Policy
- Workplace Accommodation for Disabilities Policy
- Recruitment and Selection Policy

- Information Services Policy
- Collection Development Policy
- Accessible Formats and Communication Supports
- Accessible Documents

#### 4. Accessibility plans

Large Organizations must develop a multi-year accessibility plan that outlines the steps your organization will take to prevent and remove barriers to accessibility and how the requirements of the regulation will be met.

The Whitby Public Library is included in the Town of Whitby's [Accessibility Plan](#) which is available on the Accessibility page of the Town's website or by contacting the Accessibility Coordinator.

#### Accessibility Policies and Plans: What's the Difference?

##### Accessibility policy –

An accessibility policy states what rules or principles an organization will put in place to support achieving its accessibility goals.

##### Accessibility plan –

An accessibility plan is an organization's road map for increasing accessibility – that is, the actions that support an organization's commitment to accessibility and its accessibility policies.

#### 5. Purchasing

It's also important to incorporate accessibility criteria into procurement and buying practices. Doing so can make a significant impact on preventing new accessibility barriers and addressing existing ones.

**For example**, there are accessible keyboards to help people with dexterity issues type without causing injury or pain. The legislation is not asking that all keyboards purchased for the corporation are the accessible version.

It is asking that before you purchase the standard keyboard, you have taken a look at the end user and determined whether or not the accessible version is needed.



**Accessible Keyboard**

**Standard Keyboard**



## **6. Self-Service Kiosks**

A self-service kiosk is an interactive electronic terminal, such as a point-of-sale device you use to pay for a fare for parking.

People with disabilities should be able to use it as independently and securely as possible.

# **Information and Communications Standard**

## **1. Accessible Formats and Communication Supports**

- When requested, you must provide information and communications in an accessible manner to people with disabilities.
- When a request is received, you must consult with the person to determine their accessibility needs.
- Accessible formats and communication supports must be provided in a timely manner and at a cost that is not more than the regular costs charged to other people.

Examples of alternate formats and communication supports:

- Reading written information to a person directly
- Large print
- Text transcripts of audio or visual information
- Handwritten notes instead of spoken word

- Information written in plain language
- An electronic document formatted to be accessible for use with a screen reader

### **When it's not Possible...**

There might be instances when you are unable to convert the requested information or communication – for example, if:

- Your organization has not created the information, or controls it via contract.
- The technology to convert the information is not readily available, or
- The information may be lost in the conversion process and cannot be conveyed in a meaningful way (i.e., visual information in an x-ray or architectural blueprint).

When it's not possible to convert the requested material, you need to provide the individual making the request with the following:

- An explanation as to why the information or communications are unconvertible, and
- A summary of the information or communications.

## **2. Feedback Process**

Under the Accessibility Standard for Customer Service, organizations had to establish a customer service feedback process for receiving and responding to feedback about how they provide goods or services to people with disabilities.

Your organization may have other types of external or internal feedback processes – e.g., online surveys or forms, email, phone, or print.

Under the Information and Communications Standard, you must make feedback processes accessible. This may include:

- Arranging for accessible formats and communication supports on request.
- Notifying the public about the availability of accessible formats and communication supports.

### **3. Emergency Procedures, Plans, or Public Safety Information**

If your organization provides emergency procedures, plans, or public safety information to the public, you must provide these in an accessible format, on request.

Examples of emergency information include, but are not limited to:

- Emergency plans and procedures
- Maps, warning signs, and evacuation routes
- Information you give the public about alarms or other emergency alerts

Real-time emergency information (such as announcements and alarms) is not included in this requirement.

### **4. Accessible websites and web content**

- An organization's website is often a primary way it shares information – that's why it's important that your website and web content be accessible.
- Your organization must conform to the international Web Content Accessibility Guidelines (WCAG) 2.0, as outlined in the standard.
- These guidelines were developed by the World Wide Web Consortium (W3C) and explain how to make web content more accessible to people with disabilities.
- WCAG 2.0 has different levels of compliance that determine how accessible a site is.



Examples of web page features required by the WCAG compliance Levels A and AA include the following:

**Level A feature** - Alternative text appears when your mouse hovers over an image.

**Level AA feature** - Properly named headings and labels enable people using screen reader technology to use the tab key on their keyboard to scan through information on a web page efficiently.

## 5. Public libraries

Public libraries must, in addition to meeting all of the other requirements outlined in this training manual:

- Provide or arrange to provide accessible materials where they exist, when requested.
- Make information publicly available to inform people that materials can be provided in an accessible format, on request. Keep in mind that this information needs to be accessible as well.

## Employment Standard

### Building on existing legislation

The Ontario Human Rights Code requires all employers to meet the accommodation needs of employees with disabilities to the point of undue hardship.

The Employment Standard builds on this requirement. It requires employers to have processes in place to determine an employee's accommodation needs.

## Requirements of the Employment Standard

The requirements of this standard address key processes in the life cycle of a job. The requirements:

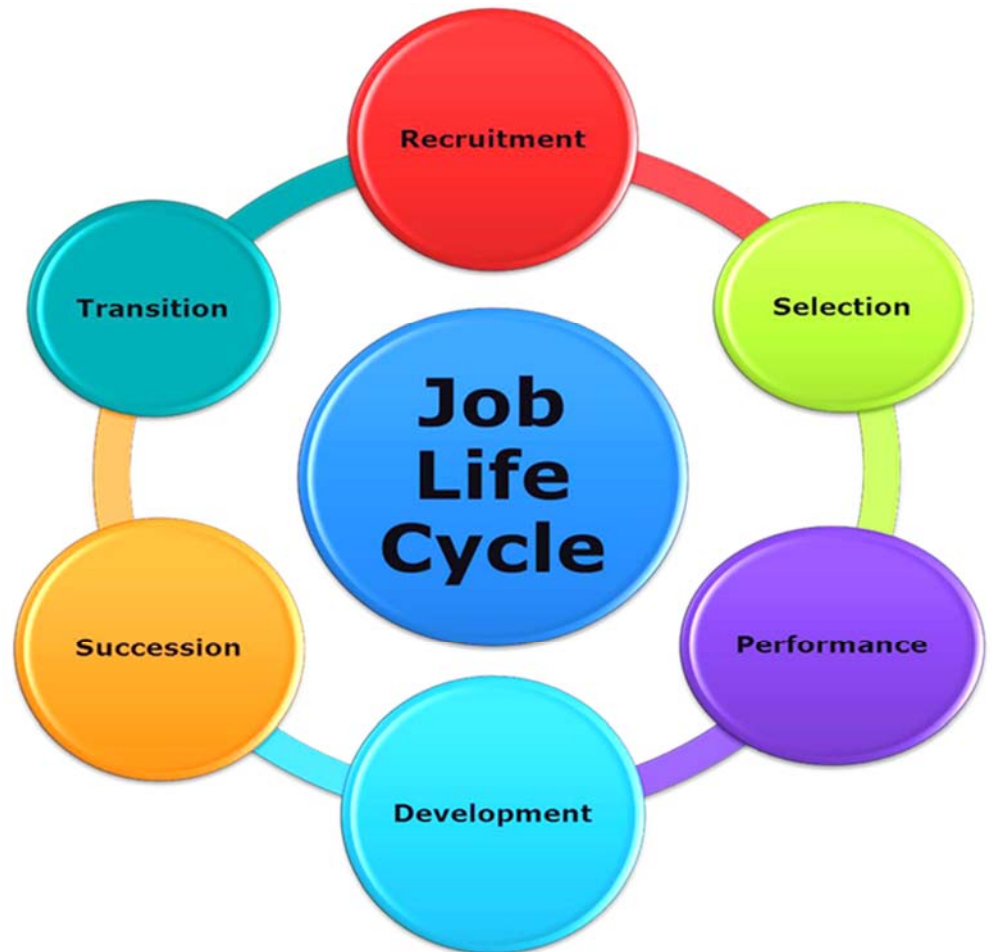
- Apply to paid employees.
- Do not apply to volunteers and other non-paid individuals.

### 1. Informing employees of supports

- The Employment Standard requires employers to inform all employees, both new and existing, of their accessible employment practices.
- This includes, but is not limited to, policies on providing job accommodations that take into account an employee's accessibility needs due to disability.
- This will make all employees aware of how the organization will support them if they have a disability – or if they acquire a disability later in their career.

### 2. Accessible recruitment process

An employment relationship with an employee typically begins through a recruitment process. When planning your accessible recruitment process, there are requirements at the following three stages:



- When advertising job positions
- When inviting job applicants to participate in the selection process
- When offering a job to a successful applicant

### **Advertising job positions**

- When advertising job positions, state that accommodations for job applicants with disabilities are available on request.
- This notifies your existing employees and the public that the organization will support their participation in all aspects of the recruitment process.

### **Inviting job applicants**

- When inviting job applicants to participate in the selection process, state that accessibility accommodations are available on request to support their participation.
- An example of an accommodation that may be requested is that material given to candidates during the interview be provided in large print.

### **Offering a job to a successful applicant**

- When offering a job to a successful applicant, inform them of your organization's policies on accommodating employees with disabilities.

## **3. Accessible formats and communication supports**

- All employees may request accessible formats and communication supports. Accessible formats and communication supports can be requested for:
  - Information required for the employee to perform their job
  - Information generally available to all employees
- Employers must consult with employees to determine their accessibility needs and how best to accommodate them.

Examples of accessible formats and communication supports an employee may require:

- Access to the use of software such as a screen reader
- Documents in an electronic format
- Text transcripts of visual or audio information

- Documents in Large print

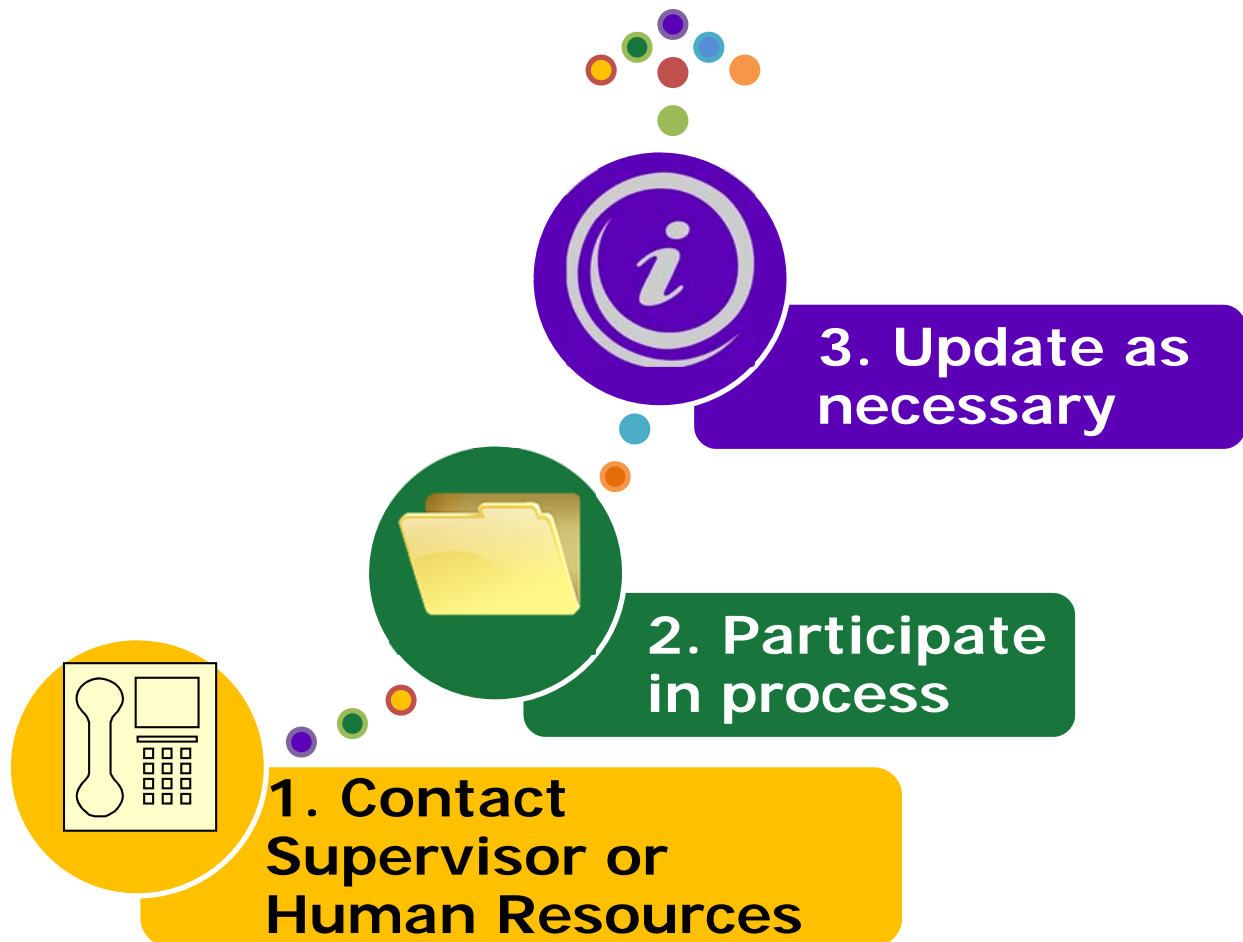
#### **4. Documented individual accommodation plans**

- The standard requires employers to have a written process to document individual accommodation plans for employees with disabilities.
- This will help organizations have a clear and consistent approach for accommodating employees with disabilities.

#### **What is an individual accommodation plan?**

- An individual accommodation plan is a formal way to record and review the workplace-related accommodations that will be provided to an employee with a disability.
- Employers must work with an employee with a disability to find the appropriate accommodation to meet the individual's accommodation needs.
  - For example, an accommodation might include the need to provide screen reader software for a computer.

## Steps to request a Workplace Accommodation



### Accommodation Examples:

#### Permanent

- Software that allows staff to speak to their computers instead of typing, ex. Arthritis
- Headsets for telephones to decrease neck injuries

#### Temporary

- Modified work location for a broken limb
- Assistance with heavy lifting duties until injury is healed

## Workplace emergency response information

- Individualized emergency response information can help both employees with disabilities and organizations prepare for various emergencies such as fire, power outages or severe weather.



For example, an employee who cannot hear a fire alarm will need to know how and when to safely exit the building in the event of a fire.

- With the employee's consent, you must ensure the information is shared with anyone designated to help them in an emergency.

## Workplace emergency response information

This emergency response information must be reviewed when:

- The employee moves to a different location in your organization.
- The employee's overall accommodation needs or plans are reviewed.
- You review your organization's emergency response policies.

### Information Shared

When working through this process, it is important to remember that information regarding your disability will only be shared as necessary.

For example:

- If a drivers license is not a bona fide requirement of a position, but a supervisor requires an employee to go out on site occasionally.
- If the employee has a disability or medical reason that has been disclosed to the Human Resources department; an accommodation will be made for transportation for this employee.
- The reason as to why the employee cannot drive is not disclosed; the fact the accommodation is needed and made is disclosed.

## **Performance Management, Career Development, and Redeployment**

- These requirements apply only if the organization currently has such processes in place. Organizations are not required to establish these processes if they don't exist.
- The standard requires that these processes take into account the accessibility needs of employees with disabilities and their individual accommodation plans.

### **7. Return to Work Process**

- An employee with a disability may sometimes need to take time off work for a treatment, recovery, or other reasons; if it can't be scheduled outside of work hours.
- In addition, a disability such as an injury or illness can happen at any time and to any of us.
- That is why the standard requires employers to develop a process that supports employees who have been absent due to a disability and who require disability-related accommodations when they return to work.

### **Documenting the return to work process**

The return to work process must:

- Be documented and outline the steps that will be taken to facilitate an employee's return to work.
- Use documented individual accommodation plans.
- The return to work process does not replace or override any other return to work processes created under any other law.

# Ontario Human Rights Code - Relating to Disabilities and the AODA

## Introduction to the Code and AODA

Laws you must follow:

- Ontario Human Rights Code = “the Code”
- Accessibility for Ontarians with Disabilities Act = “the AODA”
- Integrated Accessibility Standards Regulation = “the IASR”

**The Code has primacy.** This means that Ontario laws (with a few exceptions) have to follow the Code.

The Code and the AODA work together in various ways to promote equality and accessibility.

- Its goal is to provide for equal rights so as to create a climate of respect where everyone feels part of the community and can contribute fully.
- The Code says people with disabilities must be free from discrimination where they work, live, and receive services, and their needs must be accommodated.

While the Code and the AODA work together, they have some important differences.

### **The Code:**

- The Code applies to all Ontario organizations regardless of type and size.
- This includes “owner-operator” organizations without employees.
- It also covers volunteers and unpaid workers.

### **AODA**

- The AODA standards apply to all organizations (public, private, and not-for-profit) with one or more employees in Ontario.
- Requirements depend on an organization’s type and size.
- Does not include unpaid workers and volunteers.



## Exemptions

The Code and the AODA are both provincial laws, and both use the same definition of disability. They don't apply to the federal government and federally-regulated organizations like banks, gas stations, airlines, and interprovincial transportation companies – these are covered by the Canadian Human Rights Act.

### **“Disability” means,**

- a) 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,
- b) a condition of mental impairment or a developmental disability,
- c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- d) a mental disorder, or
- e) 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”)

## The Code

The Code offers protection of rights, equal opportunity, and freedom from discrimination. It applies to jobs, housing, and services, and states that employers, landlords, and service providers must accommodate people with disabilities to the point of undue hardship.

Employers must accommodate employees when they cannot perform all of the duties of the job because of their disabilities.

The Code promotes educating and working with organizations to make changes that prevent discrimination and harassment. The Code is not meant to punish. When discrimination happens, the goal is to fix the situation to provide equal opportunity for the person with a disability.

## Types of Barriers

Disability itself is not a barrier, but barriers exist that can exclude people with disabilities. These include:

- Information and Communication barriers, can make it difficult for people to receive or give information, such as using unclear language or print that's too small;
- Systemic barriers, can result from stereotypes or established practices, such as inflexible work hours that don't coordinate with para- transit bus schedules;
- Attitudinal barriers can be the biggest barrier. "Ableism" is a tendency to see people with disabilities as less worthy, underestimating their potential, or excluding them from decisions that affect them.
- Physical barriers, things like providing steps but no ramps or elevators



Barriers to accessibility prevent people with disabilities from fully taking part in the social and economic life of our communities.



## Understanding the Duty to Accommodate

Accommodating the individual needs of people with disabilities is a legal duty under the Code.

This allows people to benefit equally and take part fully in the workplace, housing, and other services. The most appropriate accommodation is the one that best meets the individual needs of the person with a disability.

Examples of accommodation include:

- Providing printed material in alternative formats such as electronic files, large print or Braille.
- Modifying job duties, retraining, or offering alternative work
- Installing automatic door openers and accessible washrooms

**You are only exempt if it would cause undue hardship – a very high test.**

## Undue Hardship

- Accommodation doesn't have to be provided if it causes undue hardship.
- Undue hardship is the legal limit of the duty to accommodate. It refers to situations where severe negative effects outweigh the benefit of providing accommodation.

Three factors are used to determine undue hardship:

1. Costs
2. External funding sources
3. Health and safety considerations

For example, there may be undue hardship if the accommodation violates occupational health and safety regulations.

**You must provide clear evidence if you are claiming undue hardship.**

## Notes on Accommodation:

- Accommodation is not about ensuring the individual remains in the workplace.
- It is to ensure the disability is not a basis to exclude the individual.
- There is no obligation on an employer to modify a job for a disabled employee to address performance/skill deficiencies that have nothing to do with the employee's disability.
- If there is an open job consistent with the employee's restrictions that they are capable of performing, the employer is obligated to offer it to the employee.

## Bona fide occupational requirement (BFOR)

Taken from the Saskatchewan Human Rights Code

A Bona fide occupational requirement (BFOR) is a standard or rule that is integral to carrying out the requirements of a particular position within a workplace.

For a standard to be a BFOR, an employer must establish that any accommodation or changes to that standard or rule would create an undue hardship.

If an organization determines that removing barriers or changing workplace standards or rules cause an undue hardship, then it is likely that the standard or rule is a BFOR.

Where a BFOR exists, the organization does not have a duty to accommodate to the point of undue hardship.

**Example:** A taxi driver must be able to see in order to carry out the requirements of his position – to drive a car that transports passengers.

## **Is there a way to determine if a workplace standard or rule is a BFOR?**

The Supreme Court of Canada established in the "Meiorin Case", a three-stage test to determine if a workplace standard or rule is a BFOR.

The test encourages the development of workplace standards that:

- are not discriminatory, and
- accommodate employees and allow for potential contributions of all employees in the workplace.

### **Step one - Establish a rational connection**

Was the rule adopted for a purpose rationally connected to the performance of the job?

At step one of the BFOR test the employer identifies the general purpose of the standard to determine whether it is rationally connected to the performance of the job in question.

Example:

For the taxi cab driver, the requirement of good eyesight is rationally connected to driving a car. The requirement that taxi cab drivers possess a specific driver's license is also rationally connected to the performance of the job.

Example:

The taxi company has a rule that all its drivers must be male. There is no rational connection between being male and the requirements of the job. Therefore this rule is discriminatory and must be changed in order to allow female cab drivers within the company.

## **Step two - Establish good faith**

Did the employer adopt the rule in an honest and good faith belief that it was necessary to the fulfillment of a legitimate work-related purpose?

Step two is the subjective part of the BFOR test. The employer must show that the standard or rule is required because of a sincere belief that it is necessary to meet a known business purpose.

Example:

Where the owner of the taxi company indicates that he wants men as drivers because, in his opinion women are bad drivers; this will not meet the requirements of establishing a good faith connection.

## **Third step - Establish a rule is “reasonably necessary”**

Is the rule reasonably necessary to the accomplishment of the legitimate work- related purpose?

Employers can consider the following to help determine whether a standard or rule is reasonably necessary:

- Were alternatives to the standard or rule considered?
- If alternatives were considered, why weren't they adopted?
- Must all employees meet a single standard or rule, or could different standards be adopted?
- Does the standard or rule result in some people being treated more harshly than others, based on personal characteristics?
- Were steps taken to accommodate? If yes, what were they? Were they enough?
- Is there evidence of undue hardship if an accommodation was considered and attempted?

## **Summary of Outcome for Employers**

Under the unified approach there is a three-step test for determining whether a discriminatory standard is a Bona fide occupational requirement.

The employer must establish:

1. the standard was adopted for a purpose that is rationally connected to job performance;
2. the particular standard was adopted in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose;
3. the standard is reasonably necessary to the accomplishment of that legitimate purpose.

This includes a requirement to demonstrate that it is impossible to accommodate without undue hardship.

### **Under the Code - If you need an accommodation:**

1. Tell your employer, union, landlord, or service provider about any needs related to your disability and your job duties, tenancy, or the services being provided.
2. Provide supporting information about your disability-related needs, including medical or other expert opinions where required.
3. Get involved in seeking accommodation solutions to the best of your ability.

### **An employer, union, landlord, or service provider must:**

- Accept requests for accommodation in good faith.
- Act promptly, even if it means creating a temporary solution before a long-term one can be put in place.
- Ask only for information needed to provide the accommodation.

For example, you may need to know that someone with vision loss is unable to read printed material, but not how or why she lost her vision.

- Actively seek appropriate accommodation solutions and ask for expert help if needed.
- Cooperate with all other parties, where necessary.
- Respect the dignity and privacy of the person asking for accommodation, and make sure the accommodation process doesn't lead to reprisals against that person.
- Cover the costs of accommodations, such as any needed medical or other expert opinions or documents, to the point of undue hardship.

### **Keep these points in mind:**

Favour integration over segregation:

Usually the best accommodations allow people with disabilities to participate in similar ways with everyone else.

Equal outcomes sometimes require different treatment:

Different or separate accommodations may be necessary to help people do their jobs or access services.

Same or similar work for accommodation is identified by the process and parties.

This is not an opportunity for employees to “select” the job they want to do.

Involve those who need accommodations in exploring solutions:

They often know what works best for them.

Make sure the process and solutions meet the individuals' needs and promote privacy, dignity, and respect.

And, spread out accessibility costs:

People with disabilities should not face extra costs for accommodations they need to do their job or receive a service. Accessibility should be factored in as part of the overall cost of doing business.



Under the Code, employers must consider disability-related accommodation requests and provide timely accommodation, from recruiting and hiring through to retirement or dismissal.

The Employment Standard of the Integrated Accessibility Standards Regulation builds on these requirements. Organizations must set up processes to address employee accommodation needs at all stages of their employment.

## **Ontario has three organizations in the human rights system:**

- **The Human Rights Commission** provides policies, guidelines and other information on Code grounds, including disability and the duty to accommodate.
- **The Human Rights Tribunal** hears discrimination claims (called applications) on any Code ground. This includes claims from individuals who believe an organization or person has failed to accommodate disability-related needs.
- **The Human Rights Legal Support Centre** helps people through the human rights process, such as completing an application or claim to the Tribunal.

## **Recap some key learning points:**

The Code and the AODA are laws that work together.

The Code protects every person's right to equal opportunities and to be free from discrimination.

The Code has primacy, which means that Ontario laws (with a few exceptions) have to follow the Code.

The Code states there is a legal duty to accommodate people with disabilities. If the accommodation was not made, and would not have caused undue hardship, a claim of discrimination can be made to the Human Rights Tribunal of Ontario.

## **Transportation Standard**

Some general requirements for transportation service providers:

- There are some requirements common to both conventional and specialized transportation service providers, such as:
- Making information available to the public on accessibility equipment and features of their vehicles, routes, and services.
- Providing accessibility training to employees and volunteers.
- Not charging a fare to a support person accompanying a person with a disability when that person requires a support person.
- Meeting additional transportation-specific requirements in their accessibility plans.

### **Duties of municipalities: Taxicabs**

- Municipalities must consult with their accessibility advisory committee, the public, and people with disabilities to determine the proportion of on-demand accessible taxicabs required in the community.
- Municipalities that license taxicabs must ensure that owners and operators of taxicabs meet specific requirements, which include:
- Not charging higher fares or additional fees to a person with a disability.
- Placing vehicle registration and identification information on the rear bumper.
- Making available vehicle registration and identification information to people with disabilities in an accessible format (e.g., by keeping a large print and Braille copy of the information on hand).

# **Accessibility Standards for Built Environment**

## **Design of Public Spaces**

Accessible public spaces make it easier for people with disabilities to move through and use the environment.

The requirements of the standard are divided into seven sections:

- Recreational trails and beach access routes
- Outdoor public use eating areas, like those found at rest stops or picnic grounds
- Outdoor play spaces
- Exterior paths of travel (sidewalks or walkways) and their associated elements, such as ramps, stairs, curb ramps, rest areas and accessible pedestrian signals
- Accessible off-street and on-street parking spaces
- Obtaining services (service counters, fixed queuing guides and waiting areas)
- Maintenance planning

## **The Scope of the Requirements**

The standard requires organizations to incorporate accessibility when:

- Building new public spaces, or
- Making planned significant alterations to existing public spaces.

Organizations are not required to retrofit public spaces to meet the requirements. This means that organizations are not required to alter their public spaces if they have no plans to do so.

## **Ontario Building Code**

Accessibility for elements related to buildings, for example, building entrances, washrooms and barrier-free paths of travel, are not addressed in this standard. They are addressed through Ontario's Building Code which take effect January 1, 2015.