

Understanding the Accessibility for Ontarians with Disability Act

Updated September 2017



Legal Notice

This document is meant to be a summary only. It should not be construed as a complete account of the legislation or as legal advice.

Welcome

This document provides an overview of the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) that came into force on July 1, 2005, the primary Regulation under the AODA called the Integrated Accessibility Standards (the “Integrated Standards Regulation”), and the Ontario *Human Rights Code*.

Purpose of the AODA

- In 2005, the Ontario government passed the AODA. The goal of the AODA is to have an accessible Ontario by 2025.
- The AODA is built around the core principles of: Independence, Dignity, Integration, and Equality of Opportunity.

Purpose of the Code

- The Ontario *Human Rights Code* (the “Code”) was enacted in 1962.
- Although the Code is paramount, the Code and the AODA work together to promote equality and accessibility for people with disabilities.
- The Code prohibits discrimination or harassment against people based on protected *grounds* in a protected *social area*.
- Not all unfair treatment and not all harassment is covered by the Code.
- The treatment or harassment must be based on at least one Code ground and take place within a social area to be protected.

Protected Grounds Under the Code

- The protected grounds under the Code are:
 - Age
 - Ancestry, color, race
 - Citizenship
 - Ethnic origin
 - Place of origin
 - Creed
 - Disability
 - Family status
 - Marital status (including single status)
 - Gender identity, gender expression
 - Receipt of public assistance (in housing only)
 - Record of offences (in employment only)
 - Sex (including pregnancy and breastfeeding)
 - Sexual orientation

Protected Social Areas under the Code

- Protected social areas under the Code are:
 - Accommodation (housing)
 - Contracts
 - Employment
 - Goods, services and facilities
 - Membership in unions, trade or professional associations.

The Ontario Human Rights System

- **The Ontario human rights system is composed of three separate agencies:**

1. The Ontario Human Rights Commission

The Commission's role includes promoting and developing public policy on human rights, conducting public inquiries and engaging in proactive measures to prevent discrimination using public education, policy development.

2. The Human Rights Legal Support Centre

The Human Rights Legal Support Centre provides legal services to individuals who believe they have experienced discrimination contrary to the Code. These services may include assistance in filing Tribunal applications and providing representation at mediations and hearings.

3. The Human Rights Tribunal

The Tribunal deals with all claims of discrimination filed under the Code. The Tribunal can help parties resolve their differences through mediation or settlement.

Who does AODA apply to?

- The AODA applies to any organization that has at least 1 employee in Ontario.
- The AODA applies to government bodies, public sector organizations and private sector organizations.
- Private sector organizations are categorized as “Small Organizations” (those organizations that have less than 50 employees in Ontario) and “Large Organizations” (51+ employees in Ontario).

Penalties for Non-Compliance

- Under the Integrated Standards Regulation, organizations with 20+ employees must file a compliance report with the Ontario Government every 3 years as of 2014. An officer of the organization must sign the compliance report and certify compliance with the applicable standards. This report is due by December 31st of the filing year.
- The AODA & the Integrated Standards Regulation impose stiff penalties for non-compliance.
- Corporations can be liable to pay fines of up to \$100,000 per day for non-compliance.
- Individuals can be liable for fines of up to \$50,000 per day for non-compliance.
- Officers and Directors must ensure the corporations they act for comply with the AODA failing which they can be held personally liable for non-compliance.

The Integrated Standards Regulation

- As explained above, the Integrated Standards Regulation is the primary regulation under the AODA. It sets out certain “standards” to be complied with to promote accessibility for people in Ontario.
- There are standards in 5 general areas:
 - customer service
 - transportation
 - information and communications
 - employment
 - the built environment

The Integrated Standards Regulation -Policies

- In accordance with the Integrated Standards Regulation, iA developed the following policies which can be found on the Company's website:
 - Accessible Customer Service Policy.
 - Integrated Standards Policy.
 - A multi-year plan for complying with the obligations under the Integrated Standards Regulation. This multi-year plan is part of the Integrated Standards Policy and is required for Large Organizations.

The Customer Service Standard

- One standard that we will explore in more detail in this document is the Customer Service Standard.
- The Customer Service Standard regulates how organizations provide goods and services to people with disabilities in Ontario.
- Disability is defined to include both visible and invisible disabilities:
 - Visible disabilities include physical disabilities such as those caused by birth defect, illness, or injury, and may require the use of assistive devices such as a wheelchair or prosthesis.
 - Invisible disabilities include deafness or hearing impediments, muteness or speech impediments, mental impairments, developmental disabilities, learning disabilities, etc.
- The Customer Service Standard applies to both Large Organizations and Small Organizations.

Accessible Customer Service Policy

- The key areas of the Customer Service Standard include:
 - Use of service animals and support persons
 - Assistive devices
 - Admission fees for support persons
 - Notice of temporary disruptions
 - Training
 - Feedback & questions

Service Animals

- Service animals are used for vision loss, hearing loss and can be trained to alert for on-coming seizures.
- The Customer Service Standard requires all organizations to allow service animals on their premises that are open to the public, unless the animal is otherwise excluded by law.
- When interacting with a person who uses a service animal, keep in mind the following:
 - Remember that a service animal is not a pet. It is a working animal.
 - Avoid touching or addressing service animals.
 - Avoid making assumptions about the animal. If you're not sure if the animal your client is using is a pet or a service animal, ask the client.

Support Persons & Admission Fees

- A support person can be a personal support worker, a volunteer, a family member or a friend who is medically required to help a person with communication, mobility, personal care or other medical needs.
- The Customer Service Standard provides that a support person must be allowed to accompany an individual with a disability to any part of an organization's premises that is open to the public.
- If an admission fee is charged for a support person it must be clearly disclosed in advance.
- When interacting with a person who uses a support person keep in mind the following:
 - If you're not sure which person is the client, take your lead from the person using or requesting the goods or services, or simply ask.
 - Speak directly to the client, not to their support person.

Assistive Devices

- An assistive device is a tool, technology or other mechanism that enables a person with a disability to do everyday tasks such as moving, communicating or lifting.
- Personal assistive devices can include things like wheelchairs, hearing aids, white canes or speech amplification devices.
- The Customer Service Standard requires an organization to accommodate the use of an assistive device that are needed for a disabled person to access goods or services.
- When interacting with a person who uses an assistive device keep in mind the following:
 - Don't touch or handle any assistive device without permission.
 - Don't move assistive devices or equipment, such as canes and walkers, out of your client's reach.
 - Let the client know about accessible supports and features in the immediate environment that are appropriate to their needs.

Notice of Disruptions

- The Customer Service Standard requires organizations to publicly notify clients of temporary disruptions - whether planned or unplanned - of those services or facilities that are typically used by disabled persons (for example, elevators, ramps, accessible bathrooms, accessible website features etc.).
- Notices must include the reasons for the disruption, the estimated duration and any alternative services or facilities if available.
- The notice must be posted on the organization's premises, on a website if any, or by another reasonable and appropriate method.
- Large Organizations must develop a written process for issuing such notices and make that written process available to the public upon request.

Providing Accessible Customer Service

- Being able to interact and communicate with people with disabilities is a big part of providing accessible customer service.
- Sometimes the best approach is to ask a person with a disability how you can best communicate with them.
- Often, providing good accessible customer service can be achieved through basic, simple solutions.
- On the next page there are some suggested tips on how you can better interact and communicate with people who have various disabilities:

Interacting with Disabled Persons

- If you offer assistance, wait until the offer is accepted. Listen for information that can help you decide what form the assistance should take. Be familiar with available supports that can help provide better access to a service or facility - i.e. accessible features of a website, ramps, accessible washrooms etc.
- Speak directly to the disabled person, not through someone else who is intervening or “signing” for that person.
- Identify yourself and anyone who has a vision impairment and let them know when you leave the room.
- Treat adults like adults and speak as you normally would.
- Don't shout. You can speak in a louder voice only if asked to do so.
- Don't touch, lean on, or move an assistive device like a wheelchair without permission. Treat the device as an extension of the person using it.
- Don't pet or distract a working seeing-eye dog.
- When conversing with a person with a speech impediment listen carefully and never pretend to understand. If in doubt, ask questions. Be patient and don't interrupt the person or try and finish their sentences.

Information and Communications Standard

- The Information and Communications Standard under the Integrated Standards is the next Standard we will review.
- This Standard imposes requirements for how organizations communicate with and provide information to people with disabilities in Ontario.
- The Standard applies to information or communications an organization can directly control (communication they create, own, or can modify).
- For people with disabilities in Ontario, information needs to be communicated
 - in an accessible format (formats that help people receive and understand information) upon request; or
 - with an appropriate communication support (tools to help communication) upon request.

Information and Communications Standard

- Examples of accessible formats are large print or an electronic document formatted to be accessible for use with a screen reader.
- Examples of communication supports are sign language interpreters or real-time captioning for persons who are deaf, deafened or hard-of-hearing.
- If an accessible format or communication support is requested, an organization is required to work with the disabled person to provide the requested format or support or find an alternative appropriate format or support.
- For example, if a client with a visual disability requests that a contract be provided in Braille, the organization can provide the contract in Braille or work with the client to find another suitable alternative that meets the client's disability needs.

Information and Communications Standard

- Another requirement under the Information and Communications Standard deals with the accessibility of websites.
- To be more accessible, Large Organizations had to ensure their new internet websites (or substantially refreshed websites) and new content published on those websites after January 1, 2012 complied with Web Content Accessibility Guidelines (WCAG 2.0) Level A. This obligation came into force on January 1, 2014.
- Eventually, by 2021, Large Organizations must ensure that all their websites and web content comply with WCAG 2.0 Level AA.
- The WCAG Guidelines cover things like writing website content in plain language, providing alternate text for images, ensuring someone can navigate a website with the use of just a keyboard, and that documents on a website can be read by a screen reader.

Employment Standard

- The Employment Standard is designed to help employers create equal employment opportunities for Ontario employees and prospective employees with disabilities.
- As part of their obligations under this Standard, organizations must work to remove barriers and improve accessibility for employees with disabilities when:
 - posting jobs and during the recruitment and selection process;
 - managing the employment relationship; and
 - providing emergency response information, rehabilitation or return-to-work processes.
- Accessible formats and communication supports must also be provided to disabled employees upon request.
- All organizations must develop procedures to comply with the accessibility requirements under the Employment Standard and in some instances, Large Organizations must have written procedures are required.

Design of Public Spaces Standard

- The Design of Public Spaces Standard applies to buildings and public spaces including outdoor elements such as recreational trails, outdoor public eating areas, outdoor play spaces, exterior paths of travel, off-street parking, service counters and wait areas.
- One key obligation under this Standard is that Large Organizations must have a plan (as part of their multi-year plan) for preventative and emergency maintenance of the accessible elements of public and for the temporary disruption of those elements (for example, a sidewalk into the building is blocked)
- This Standard also imposes accessibility obligations in regards to public spaces such as:
 - newly constructed or redeveloped exterior paths of travel (outdoor sidewalks or walkways) or off-street parking
 - Service counters, or fixed queuing lines
- Note that these obligations are in addition to accessibility obligations that exist under the Building Code in Ontario.

Transportation Standard

- The Transportation Standard covers modes of transit such as bus, rail and taxi.
- This Standard applies to government, public sector organizations and private sector organizations that are in the business of providing transportation services to the public in Ontario.

Feedback

- The Integrated Standards Regulation requires organizations to have a procedure whereby the public can provide feedback or complaints.
- There is a general requirement for a feedback procedure under the Integrated Standards Regulation but this requirement is also repeated specifically under the Customer Service Standard.
- Large Organizations must document their feedback process in writing and make it available upon request.