

**LABOUR LAW**

# Workplace accommodation

**NEW LAWS ARE ABOUT TO TAKE EFFECT  
- IS YOUR FIRM READY?**



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FOR MANAGERS AND HR PROFESSIONALS

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The duty to accommodate under the Human Rights Code is not a new concept to employers. Human resources professionals must frequently assess and determine measures to ensure employees with disabilities are appropriately accommodated in the workplace.

Many employers are also busy preparing for the Accessibility for Ontarians with Disabilities Act. The purpose of the AODA is to make Ontario fully accessible for persons with disabilities by 2025 by establishing and implementing binding accessibility standards for provincially regulated employers in the following areas: customer service; transportation; information and communications; the built environment; and employment.

Over the next decade, employers will play a key role in achieving a fully accessible Ontario. But employers can expect this road to be paved with significant legal compliance requirements.

## Why worry now?

The biggest current concern for employers is complying with the Customer Service Standard. While public-sector organizations have been in compliance by the start of this year, private and not-for-profit organizations must comply by Jan. 1, 2012.

The standard has a number of compliance requirements, including:

- Establishing policies, practices and procedures;
- Training staff, volunteers, contractors and others who provide goods or services to the public and other third parties on behalf of an organization; and
- Meeting specific requirements in relation to assistive devices, service animals, support persons, notices of temporary disruptions, feedback processes and complaint procedures.

Many public-sector organizations encountered significant challenges to achieving compliance in a timely fashion. This was especially true for large organizations, many of which have hundreds – if not thousands – of employees providing goods and services to the public and who therefore had to be trained. Employers in the private and not-for-profit sectors would be well-advised to get a head start well in advance of Jan. 1, 2012. Employers who are currently undertaking construction or renovation of their workplaces should also consider in their designs the potential implications of the AODA.

## What do we need to do?

### ○ DESIGNATE A PERSON WHO IS RESPONSIBLE FOR AODA COMPLIANCE

Each organization should consider designating an individual who will be responsible for compliance with the AODA and, by extension, with the customer service standard.

### ○ LEARN ABOUT THE AODA AND THE STANDARD

It is important for employers to educate themselves about the AODA and the various standards. The Ministry of Community and Social Services has created a large volume of materials to assist employers that can be found on the AccessON website (<http://www.mcscs.gov.on.ca/en/accesson/index.aspx>).

### ○ DEVELOP POLICIES, PRACTICES AND PROCEDURES

The standard requires all organizations with at least 20 employees in Ontario

to prepare one or more documents to describe its policies, practices and procedures in the area of AODA compliance. The employer's policies, in particular, should be finalized before training begins, so that the policy itself can form part of the training.

### ○ DETERMINE WHO HAS TO BE TRAINED

A broad range of individuals will have to be prepared for the task. The primary focus is on people who provide goods or services to the public or other third parties on behalf of the organization. This includes employees, agents, volunteers, contractors, consultants, and any person who participates in developing the employer's policies, practices and procedures on the provision of goods and services (e.g. senior managers or consultants).

### ○ DETERMINE WHEN TRAINING WILL OCCUR

Under the standard, training should be completed by the compliance deadline (Jan. 1, 2012 for the private and not-for-profit sectors). New employees will have to be trained as soon as practical after the individual is assigned his or her duties. Ongoing training may be required if the policies, practices and procedures change. Employers should keep records of training sessions and the people trained.

### ○ TRAINING FORMATS AND METHODS

The standard does not prescribe the training format or method – it may range from e-mailing or distributing brochures or handouts, to online learning, to in-person training, or all of the above. Thus, employers have a high degree of flexibility in preparing and delivering a training program that is suited to their needs and circumstances. Many employers are using the ministry's ServeAbility online training module to train their employees. The module is currently provided free of charge, takes approximately 45 minutes to complete, and covers all the required elements of a training program. The ministry also has written material that could be handed out, including a complete training manual, sample policies and checklists.

### ○ FILLING OUT THE ACCESSIBILITY REPORT

By March 31, 2010, designated public-sector employers had to file an accessibility report with the ministry signed by a senior officer of the organization. The same requirement will apply to businesses and other organizations with 20 or more employees, on a date to be determined in 2012. The accessibility report is on the ministry's website and requires, for example, that employers indicate whether they have successfully completed all necessary training under the standard.

### ○ PREPARING FOR THE FUTURE

The customer service standard is only the first of five standards to come into force under the AODA. All provincially regulated organizations, whether public, private or not-for-profit, should consider reviewing the most recent version of each proposed standard to gain an understanding of what those standards may require when they become law. This will help identify the existing resources and the potential new resources and costs that will need to be allocated toward compliance efforts. With these strategies in place, organizations can ensure they are prepared to comply with the AODA's accessibility standards as they come into force over the next several years. For human resources professionals, the AODA represents a unique opportunity to play a leading role in the move towards greater accessibility of facilities and services in Ontario. ■



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