

e2r Alert!

THE ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (“AODA”) UPDATE

AODA General Overview

AODA has the goal of improving accessibility to key areas of daily living for individuals with disabilities in Ontario. AODA is an overarching piece of legislation that was in fact enacted back in 2005 and applies to every organization in the public and private sectors in the Province of Ontario. Organizations operating in other jurisdictions across Canada however will want to take note of these developments as there has been movement in other jurisdictions in the country to follow the lead of the Province of Ontario with respect to enacting legislation overseeing accessibility for persons with disabilities (see Final Thoughts below).

AODA itself does not create many specific obligations on organizations. Rather, it is the governing legislation that enables the government to enact laws which requires both public and private organizations in Ontario to implement and adhere to mandatory “accessibility standards” to address the needs of persons with disabilities with respect to access to goods, services, facilities, employment, accommodation and buildings (“Accessibility Standards”).

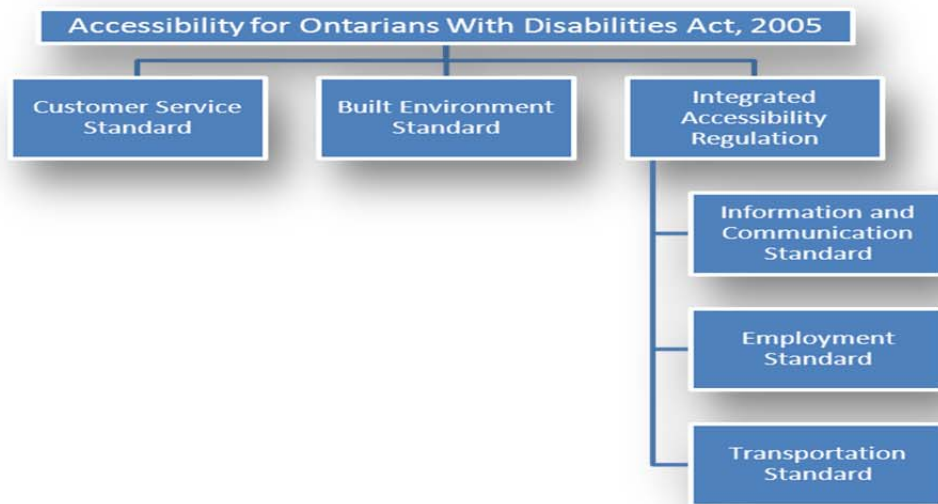
The five Accessibility Standards, as further detailed below, have been developed in phases since 2005 and are truly the “meat and potatoes” of the AODA scheme. The implementation of these Accessibility Standards will have extensive effects for many organizations and are by no means simply a Human Resources initiative. The impact of AODA will extend to organizations as a whole, with a particular emphasis on operational implications. Each Accessibility Standard contains its own timelines for compliance ranging from 2011 to 2025.

AODA builds upon other laws currently in place in the Province of Ontario such as the *Ontarians with Disabilities Act* which requires the government and the public sector to develop annual accessibility plans for persons with disabilities. In addition, the definition of disability in AODA adopts the same definition of disability from the Ontario *Human Rights Code* (“Code”). However, whereas the Code protects individuals against discrimination based on a number of prohibited grounds, including disability and is primarily complaint driven, AODA addresses access to goods, services, accommodation, employment, and the built environment for persons with disabilities as a group and is primarily enforced through government inspections. AODA is overseen by the Ministry of Community and Social Service (the “Ministry”).

The Accessibility Standards

The Accessibility Standards under ADOA are as follows:

- The Built Environment Standard;
- The Customer Service Standard;
- The Information and Communications Standard (contained in the Integrated Accessibility Regulation);
- The Transportation Standard (contained in the Integrated Accessibility Regulation); and
- The Employment Standard (contained in the Integrated Accessibility Regulation).



The Built Environment Standard

This Standard involves the consideration of buildings and dwellings. Organizations will have to use the requirements in the Built Environment Standard to identify, remove and prevent barriers to accessibility to the built environment for persons with disabilities. The Built Environment Standard is in the draft stages and has not yet been passed into law.

The Customer Service Standard

The Customer Service Standard is based on the theory that customers with disabilities may have different needs and as such there is a need to find the best way to help them access good and services offered by organizations. The Customer Service Standard therefore sets out the requirements that must be complied with in order to make goods and services more accessible to persons with disabilities.

Every organization operating in Ontario that provides goods or services to the public or other third party organizations and that has at least one employee in Ontario is required to be in compliance with the Customer Service Standard by January 1, 2012.

A failure to comply with the requirements under the Customer Service Standard can result in penalties of up to \$50,000 per day levied against an individual and \$100,000 per day against a corporation in circumstances of repeated and severe failures to comply. An initial determination that an organization is not in compliance with the Customer Service Standard however, will likely result in a simple "Order to Comply" being handed out by inspectors from the Ministry. It is likely that the mandate of the Ministry, at least in the initial stages of inspections, will be to guide organizations on compliance rather than taking a heavy handed approach to enforcement.

There are four components to achieving compliance with the Customer Service Standard:

Component #1 – Policy, Practice and Procedural Requirements

Component #2 – Operational Requirements

Component #3 – Training Requirements

Component #4 – Special Requirements for organizations with 20 or more employees.

For further details on each of these four components please request the June 1, 2011 e2r Solutions® “*The Accessibility for Ontarians with Disabilities Act – What You Need to Know*” Think Tank material.

In addition, on July 27, 2011 e2r Solutions® shall be holding an “*AODA Customer Service Standard – Train the Trainer*” Think Tank to assist your organization in beginning to meet the training requirements under the Customer Service Standard. Included in the “*AODA Customer Service Standard – Train the Trainer*” Think Tank will be training material and sample policies that can be customized for use in your organization.

The Integrated Accessibility Regulation

The Employment, Information/Communication and Transportation Standards have been packaged together and developed into an “Integrated Accessibility Regulation”. This is simply a “three for one deal”. As these Accessibility Standards had overlapping requirements such as policy development and training requirements, it made more practical sense to package these three Accessibility Standards together. Within the Integrated Accessibility Regulation therefore, there are general requirements applicable to all three Accessibility Standards and specific requirements under each separate Accessibility Standard.

The government has recently announced that the provisions under the Integrated Accessibility Regulation shall become law on July 1, 2011. Timelines for compliance with the various aspects of the Integrated Regulation range between 2011 and 2025.

The Information and Communication Standard

The Information and Communications Standard focuses on accessible information and communications for persons with disabilities relating to the provision of goods and services by organizations. This includes websites, brochures, flyers, invoices, telephone communications and marketing material. Among the requirements under the Information and Communications Standard is ensuring that such information and communication is provided in an accessible format.

The Transportation Standard

The Transportation Standard focuses on the removal of barriers for people with disabilities so that they can more easily access transportation services in Ontario and will have the greatest impact on traditional transportation services such as buses, subways, ferries, taxis and school transportation.

While organizations in Ontario will be required to be familiar and compliant with any provisions of the Information/Communication and Transportation Standards that may be applicable to the organization, of particular interest to employers and Human Resources professionals in Ontario will be the requirements under the Employment Standard.

The Employment Standard

The focus of the Employment Standard is on accessibility in employment for persons with disabilities and touches upon many areas inherent in the employment relationship such as recruitment, retention, performance reviews and accommodation of employees with disabilities.

The Employment Standard requires organizations to engage in proactive identification, removal and prevention of barriers to full participation in employment for persons with disabilities. Among the many requirements are developing policies and procedures regarding the inclusive design of employment systems and processes, developing individual accommodation plans and return to work processes.

Stay tuned for further information regarding an e2r Solutions® Think Tank on the Employment Standard coming in the fall of 2011!

Final Thoughts

Finally, all organizations in all jurisdictions across the country will be interested in staying up to date on these developments, as it will likely only be a matter of time before similar legislation is tabled in jurisdictions outside of Ontario. The Manitoba government, for example, has very recently taken action towards creating greater accessibility for people with disabilities in Manitoba by tabling legislation to create an advisory council that will make recommendations on:

- Developing legislation or regulations that would set up a process to identify, prevent and remove barriers faced by people with disabilities;
- Policies, practices and requirements that may be implemented by government to improve accessibility; and
- Develop long term accessibility objectives.

It is anticipated that the Ontario AODA model will play a significant role in the development of recommendations by this Manitoba advisory council as well as future efforts by legislators in other Canadian jurisdictions.

Please contact e2r Solutions® should you have any questions regarding the foregoing.

If you do not wish to receive further e2r Alerts, please reply to this email with the word Unsubscribe in the subject line of your reply and your email address will be deleted from our distribution list.

e2r Solutions®
"Real Human Resources Advice in Real-Time"

70 The Esplanade, Suite 401 | Toronto, ON M5E 1R2 | 1.866.327.7657 | tel 416.867.3093 | fax 416.867.1434

Visit us online:  [e2r Solutions® Website](#) |  [Facebook](#) |  [LinkedIn](#)

e2r Solutions® is a service of Woolgar VanWiechen Ketcheson Ducoffe LLP, a certified MDP.

IMPORTANT/CONFIDENTIAL: This email message and any attached files are intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any other distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify us immediately by telephone at 416.867.3093 and destroy original message.