



ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005: A PRIMER

The *Accessibility for Ontarians with Disabilities Act, 2005* (the “Act”) aims to accomplish its goal of accessibility in Ontario through the implementation and enforcement of accessibility standards. The accessibility standards are the rules that businesses and organizations in Ontario will have to follow to identify, remove and prevent barriers to accessibility. The Act sets out the following accessibility standards:

- Customer Service Standard;
- Integrated Standard (which encompasses employment, information and communications, and transportation); and
- Built Environment Standard.

The Act applies to private sector or non-profit organizations that provide goods, services or facilities directly to the public or to other businesses or organizations in Ontario, and have one or more employees in Ontario (“Providers”).

Of the accessibility standards, the Customer Service Standard and Integrated Standard have become law. The Customer Service Standard came into effect on January 1, 2008, with private sector compliance required by January 1, 2012. The Integrated Standard came into effect on July 1, 2011 with staggered compliance requirement dates as early as January 1, 2012. It is not yet known when the Built Environment Standard will come into force.

Customer Service Standard

In order to comply with the Customer Service Standard, all Providers are legally required to:

1. Establish policies, practices and procedures for providing goods or services to people with disabilities.
2. Set a policy on allowing people to use their own personal assistive devices to access the goods and use the services and any other measures the Provider offers (assistive devices, services or methods) to enable people to access the goods and utilize the services.
3. Use reasonable efforts to ensure that the Provider’s policies, practices and procedures are consistent with the core principles of independence, dignity, integration and equality of opportunity.
4. Communicate with a person with a disability in a manner that takes into account his or her disability. Ask persons with disabilities how they wish to be communicated with.
5. Train staff, volunteers, contractors and any other people who: (i) interact with the public or other third parties on the Provider’s behalf on a number of topics as outlined in the Customer Service Standard; or (ii) are involved in developing the Provider’s policies, practices and procedures on the provision of goods or services on a number of topics as outlined in the Customer Service Standard.
6. Allow people with disabilities to be accompanied by their guide dog or service animal in those areas of the premises that are open to the public, unless the animal is excluded by another law.

If a service animal is excluded by law, use other measures to provide goods or services to the person with a disability.

7. Permit people with disabilities who use a support person to bring that person with them while accessing goods or services in premises open to the public or third parties. Where admission fees are charged, provide notice ahead of time on what admission, if any, would be charged for a support person of a person with a disability.
8. Provide notice when facilities or services that people with disabilities rely on to access or use the Provider's goods or services are temporarily disrupted.
9. Establish a process for people to provide feedback on how the Provider provides goods or services to people with disabilities and how the Provider will respond to any feedback and take action on any complaints. Make the information about the Provider's feedback process readily available to the public.

Documentation Requirements Under the Customer Service Standard

There are documentation requirements for public sector organizations and Providers with 20 or more employees. These organizations must:

- document in writing their accessible customer service policies, practices and procedures;
- notify their customers that these documents are available upon request; and
- provide information in the required document(s), when providing them to a person with a disability, in a format that takes into account their disability.

To ensure that businesses and organizations are complying with the requirements of the Customer Service Standard, they must file an annual online accessibility report with the Accessibility Directorate of Ontario. All public sector organizations must file their report annually by March 31st. The deadline for non-public sector organizations is December 31st. Organizations with fewer than 20 employees (except for public sector organizations) are exempt from this requirement.

From the requirements listed above, it is clear that the aim of the Customer Service Standard is not to regulate the actual products or services, but rather the way in which the products or services are provided to the public or third parties.

Integrated Standard

The Integrated Standard combines three separate accessibility standards: information and communication; employment; and transportation. The Information and Communications Standards' focus is to ensure that information and communications relating to the provision of goods and services are accessible to persons with disabilities, while the Employment Standards set out how organizations are to incorporate accessibility measures for persons with disabilities, both in recruitment processes and during employment. The aim of the Transportation Standards is to prevent and remove barriers that persons with disabilities may face when attempting to access transportation services.

The Integrated Standard came into force on July 1, 2011 and will be implemented in phases according to its staggered compliance deadlines. Of particular note is that under the Integrated Standard, by January 1, 2012 employers must provide individualized workplace emergency response information to disabled employees if: (i) the employer is aware of the need for accommodation; and (ii) it is required based on the employee's disability.

Enforcement

The Act grants the Deputy Minister power to appoint one or more inspectors to determine whether organizations are compliant with the Act and its regulations. In the course of an inspection, an inspector may, without warrant, enter any lands or any building, structure or premises where the inspector has reason to believe there may be documents or things relevant to the inspection and: (i) require the production of any documentation deemed relevant; (ii) remove such documentation; and (iii) question any persons present on matters relevant to the inspection. If a person or organization has contravened the Act, they may be required to comply with the Act within specified timeframes, assigned monetary penalties and/or prosecuted through the courts. Monetary penalties can be levied on a daily basis to a maximum of \$100,000.00 for a corporation and \$50,000.00 for an individual or unincorporated association.

The Licence Appeal Tribunal will hear appeals from organizations on compliance matters. The Tribunal will not hear complaints from individuals. A person who feels that their human rights have not been met will still need to direct their complaints to the Human Rights Tribunal of Ontario.

Accessibility for Ontarians with Disabilities Act, 2005 | **FAQ**

Q. What is the AODA?

A. The *Accessibility for Ontarians with Disabilities Act, 2005* (the “**AODA**”) lays the framework for the development of province-wide mandatory standards on accessibility. The AODA contains the following accessibility standards, which are the rules that businesses and organizations in Ontario will have to follow to identify, remove and prevent barriers to accessibility:

- customer service standard;
- integrated standard (encompasses employment, information and communications, and transportation); and
- built environment standard.

Q. To whom do the standards apply?

A. The standards apply to all organizations (public, private and non-profit) that provide goods, services or facilities either directly to the public, other organizations or third parties in Ontario and have one or more employees in Ontario.

Q. What does it mean to “provide goods, services or facilities to the public”?

A. If your organization provides goods, services or facilities that members of the public are allowed to purchase or use, you are captured under the customer service standard.

Q. What does it mean to “provide goods or services to other organizations or third parties”?

A. The customer service standard applies to persons or organizations that make goods or services available to third parties, such as other businesses, the government or other organizations. This includes consultants, manufacturers and wholesalers as well as providers of other business and professional services. Under the customer service standard, providers of goods or services to third parties must comply with the same requirements as providers who serve the public.

Q. How are employees counted?

A. All full-time, part-time, seasonal and contract employees, regardless of status, must be counted when determining the number of employees an organization has. Volunteers and independent contractors are not included; however organizations captured by the customer service standard

are responsible for ensuring that the services provided by non-employees on their behalf follow the rules of the standard and that the individuals are trained.

The customer service standard does not set a date on which the organization must count its employees. However, the organization’s obligations under the standard will change as the number of its employees changes.

Q. What is required under the customer service standard?

A. The customer service standard requires employers to: (i) establish policies, practices and procedures on providing goods or services to people with disabilities; (ii) train staff, volunteers, contractors and any other people that interact with the public or third parties, or are involved in developing the organization’s policies, practices and procedures on the provision of goods or services on a number of required topics; (iii) allow persons to be accompanied by service animals or support persons when present on certain of the organization’s premises; (iv) provide notice when facilities or services utilized by persons with disabilities are temporarily disrupted; and (v) establish a feedback process.

Organizations with 20 or more employees must also: (i) document and make available in writing their accessible customer service policies, practices and procedures; (ii) provide such documentation in a format that takes into account a person’s disability, if applicable; and (iii) file an annual online accessibility report with the Accessibility Directorate of Ontario.

Q. Does the customer service standard apply within an organization?

A. The customer service standard does not apply to services provided internally within an organization (for example, services to employees or an in-house legal branch of a corporation). It addresses only those provided externally to the public or other third parties. When a person is both an employee and a customer, an organization must comply with the customer service standard in its role as a goods or services provider, not in its role as an employer.

Q. What if another company provides some of my services?

- A. If an organization is captured by the customer service standard, it must ensure that those organizations that it has contracted with to provide services on its behalf are compliant with the customer service standard's requirements, regardless of where the organizations may be geographically located.

Q. What are the deadlines for compliance?

- A. Of the standards, only the customer service and integrated standards have become law. The built environment standard, which will help remove barriers in buildings and outdoor spaces for people with disabilities, has not yet come into force.

Customer service standard:

Designated public sector organizations had to meet the requirements of the customer service standard by January 1, 2010. All remaining organizations that provide goods or services either directly to the public, to other organizations or third parties in Ontario and that have one or more employees in Ontario must follow suit by January 1, 2012.

Integrated standard:

By January 1, 2012 employers must provide individualized workplace emergency response information to disabled employees if: (i) the employer is aware of the need for accommodation; and (ii) it is required based on the employee's disability.

With the exception of the obligations relating to workplace emergency response information, private organizations with 50 or more employees must be in compliance with the employment obligations by January 1, 2016 and organizations with less than 50 employees must be in compliance by January 1, 2017.

Q. How will the AODA be enforced?

- A. The AODA grants the Deputy Minister power to appoint one or more inspectors to determine whether organizations are compliant with the AODA and its various regulations. If a person or organization has contravened the AODA, they may be required to comply within specified timeframes, assigned monetary penalties and/or prosecuted through the courts.

Monetary penalties can be levied on a daily basis to a maximum of \$100,000.00 for a corporation and \$50,000.00 for an individual or unincorporated association. The Licence Appeal Tribunal will hear appeals from organizations on compliance matters. The Tribunal will not hear complaints from individuals. A person who feels that their human rights have not been met will still need to direct their complaint to the Human Rights Tribunal of Ontario.

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ACCESSIBILITY STANDARDS FOR CUSTOMER SERVICE: COMPLIANCE CHECKLIST



Establish policies, practices and procedures which:

- Are consistent with the principles of dignity, independence, integration and equality of opportunity
- Set out the organization's commitment to providing goods or services to people with disabilities
- Discuss the use of assistive devices by people with disabilities, as well as any assistive devices provided by the organization
- Allow the entry of service animals to those parts of the organization that are open to the public
- Welcome support persons, and set out the admission fee for support persons, if applicable
- Provide public notification when there is a temporary disruption to accessible services, which sets out accessible alternatives as well as the length of the disruption



Develop a training program for those that interact with the public or other third parties on the organization's behalf, or who develop the organization's policies or procedures, which:

- Discusses the AODA and its requirements
- Reviews the organization's policies, practices and procedures governing the provisions of goods or services to those with disabilities
- Sets out how to interact and communicate with those with various types of disabilities, as well as those who use an assistive device, service animal or support person
- Provides instruction on how to use equipment or assistive devices provided by the organization, as well as how to assist a person who is experiencing difficulty accessing the organization's goods or services



Establish a feedback process that is readily available to the public which:

- Allows people to provide feedback regarding the organization's provision of goods and services to persons with disabilities
- Can be accessed in a variety of formats, including: in person, by telephone, in writing, by email, online, on disc or by another method
- Specifies the actions that the organization will take when a complaint is received



Prepare one or more documents which:*

- Discuss the organization's customer service policies, practices and procedures regarding the provision of goods or services to those with disabilities, with particular reference to the use of personal assistive devices, as well as those personal assistive devices provided by the organization
- Describe the policies, practices and procedures regarding the entry of service animals and support persons
- Review the steps that will be taken in connection with a temporary disruption to the facilities or services used by persons with disabilities
- Set out the organization's policy on providing accessible customer service training
- Describe the organization's process for receiving and responding to feedback regarding its provision of goods or services to those with disabilities



Notify the public that the documents required under the standard are available upon request by posting the notice in a conspicuous place on the premises, or on the organization's website.*



Provide the required documents upon request, and when providing documents to a person with a disability, do so in a format that takes into account the particular disability.*



Maintain the policies annually.

* Applicable only to those organizations with 20 or more employees and public sector organizations.

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