



# Employment Update

## Employment and Labour Group

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## ONTARIO'S NEW CUSTOMER SERVICE STANDARDS: BRINGING YOUR BUSINESS INTO COMPLIANCE

### Maria Kotsopoulos

As of January 1, 2012, every person or organization that provides goods or services to members of the public or other third parties and that has at least one employee in Ontario must ensure compliance with the Accessibility Standards for Customer Service developed under the *Accessibility for Ontarians with Disabilities Act*. This is the first of a series of anticipated accessibility standards that will be developed under this legislation in order to set policies and other measures to identify and remove barriers in Ontario for persons with disabilities.

Compliance with the Accessibility Standards for Customer Service was required of designated public sector organizations as of January 2010. The next phase of implementation will require private sector organizations to comply by January 1, 2012.

What are the requirements of this Accessibility Standard and what do you have to do to ready your organization?

In order to be compliant with the Accessibility Standards for Customer Service, providers of

goods or services to the public or third parties will be required to:

- Establish policies, practices and procedures governing the provision of its goods or services to persons with disabilities;
- Communicate in a manner that takes into account the person's disability;
- Use reasonable efforts to ensure that practices and procedures are consistent with the fundamental principles of dignity, independence, integration and equal opportunity;
- Permit persons with disabilities requiring a guide dog or other service animal to enter their premises, unless a service animal would be otherwise excluded by law;
- Provide notice to persons with disabilities of temporary disruption in facilities or services;
- Provide training about the provision of its goods or services to persons with disabilities to all persons who deal with members of the public or other third parties on behalf of the provider, including employees, agents, volunteers or otherwise and to every person who participates in developing the provider's policies, practices and procedures;

*“...organizations with 20 or more employees will have to demonstrate compliance with the Customer Service Regulation by filing an annual online accessibility report.”*



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Maria advocates on behalf of employers, not for profit organizations, trade unions, and employees, and has been involved in matters before the Superior Court of Justice, the Federal Court, the Labour Board, the Human Rights Tribunal, the Workplace Safety and Insurance Appeals Tribunal, and other tribunals.

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- Training must include a review of the purposes of the *Accessibility for Ontarians with Disabilities Act* and the requirements of the Regulation and include specific instruction in respect of:
  - How to interact and communicate with persons with various types of disability;
  - How to interact with persons with disabilities using assistive devices or requiring the assistance of a guide dog or other service animal or the assistance of a support person;
  - How to use equipment or devices available on the provider's premises or otherwise provided by the provider that may help with the provision of goods or services to a person with disability;
  - What to do if a person with a particular type of disability is having difficulty accessing the provider's goods or services;
  - Prepare a process for receiving and responding to feedback about the manner in which goods or services to persons with disabilities are being provided and setting out how the organization will respond if a complaint is received.
- Maintain records of the training provided, the dates training was provided and the number of individuals to whom training was provided;
- Prepare a document outlining its feedback process;
- Notify persons to whom it provides goods and/or services that the documents required by the Regulation are available upon request either by posting in a conspicuous place at premises owned or operated by the provider, by posting on the provider's website or such other method as is reasonable in the circumstances.

In addition, organizations with 20 or more employees will have to demonstrate compliance with the Customer Service Regulation by filing an annual online accessibility report.

Enforcement procedures are outlined in the governing Act. The Act contemplates the appointment of inspectors to ensure compliance with the Act and Regulation. Inspectors may require production and removal of relevant documents or records, question any person on matters relevant to the inspection and use data storage or retrieval devices or system to produce a document in readable form.

Non-compliance with the filing of an accessibility report or other report may lead to an order from the Director that the person or organization file an accessibility report or other directed information with a specified period of time and/or pay an administrative penalty. Furthermore, the Act identifies when an offence has occurred for its purposes. A person is guilty of an

Organizations with 20 or more employees will also be required to:

- Prepare a document or documents outlining and describing its policies, practices and procedures, which would be available to any person upon request, including in relation to the use of service animals or support persons and the steps to be taken in connection with a temporary disruption of services;

## EMPLOYMENT NOTES

offence under the Act if they furnish false or misleading information in an accessibility report or provide other false or misleading information to the director, fail to comply with an order made by the Director or obstruct an inspector's investigation or inspection. Fines under the Act are not insignificant and may be up to \$50,000 for a person or \$100,000 for a corporation in each case for *each day or part of a day on which the offence occurs or continues to occur*.

Given the breadth of these requirements, organizations should begin their preparations now.

A good starting point is the designation of a person or group of people to review the requirements of the Act and Regulation and begin a review of the organization's customer service practices and policies. This group would be tasked with a review of the organization's existing policies and practices to see what additional policies are needed to bring the organization into compliance with the standards. For example, if the organization does not currently have an existing policy that deals with assistive devices or access to premises by service animals, one will have to be created or added to the existing manual. This group would then undertake a review of existing customer service practices. The goal at this stage is to determine if existing practices accord with the principles of inclusion and integration espoused by the Act or whether any gaps are identified that might constitute barriers to persons with disabilities. The key question at this stage is whether anything can be done differently to enable persons with disabilities to better access the organization's goods or services.

The Government of Ontario has created a Guide and a Compliance Manual, which are helpful and available online at:

<http://www.mcass.gov.on.ca/en/mcass/programs/accessibility/ComplyingStandards/customerService/guideToAccessibilityStandards/tableOfContents.aspx>

[http://www.mcass.gov.on.ca/documents/en/mcass/accessibility/ComplyingStandards/compliance-manreg429\\_07/ComplianceManual.pdf](http://www.mcass.gov.on.ca/documents/en/mcass/accessibility/ComplyingStandards/compliance-manreg429_07/ComplianceManual.pdf)

If you have any questions about your organization's obligations or require assistance in developing your policy and ensuring compliance with the Accessibility Standard for Customer Service under the Accessibility for Ontarians with Disabilities Act, our labour and employment group is available to assist. ■

EXPECT THE BEST

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*Employment Update* is a publication of the Employment and Labour Law Group of Blaney McMurtry LLP. The information contained in this newsletter is intended to provide information and comment, in a general fashion, about recent cases and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific advice, please contact us.

We welcome your comments. Address changes, mailing instructions or requests for additional copies should be directed to Chris Jones at 416 593.7221 ext. 3030 or by email to [cjones@blaney.com](mailto:cjones@blaney.com). Legal questions should be addressed to the specified author.