

New Integrated Accessibility Standards in Communications, Employment and Transportation Now in Force: Readyng Your Organization

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In our Employment Update in April of this year, we advised you about the requirements of Ontario's Accessible Customer Service Standards under the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA").

In July 2011, the Integrated Accessibility Standards Regulation (the "Integrated Regulation") under the AODA came into force. It outlines new accessibility standards in three main areas: (1) information and communications; (2) employment and (3) transportation. The Integrated Regulation is meant to be read in conjunction with and does not replace or limit any requirements or obligations owed to individuals with disabilities established under the *Human Rights Code* or other legislation.

The Integrated Regulation outlines fairly significant new standards that will apply to public and private sector organizations and will require compliance by stipulated dates depending upon the nature and size of your organization.

For the purposes of this review, we will focus on the requirements for small and large private sector organizations. Under the Regulation, a "large organization" is defined as having 50 or more employees in Ontario and a "small organization" is one with fewer than 50 employees in Ontario.

INFORMATION AND COMMUNICATIONS STANDARDS

The standards relating to Information and Communications generally require obligated organizations to:

- ensure processes for receiving and responding to feedback are in a format accessible to persons with disabilities and that there are appropriate communications supports;
- notify the public of the existence of these formats and communications supports and provide them to persons with disabilities in both a timely manner and at no greater cost than the regular cost charged to other persons; and
- consult with the person making the accessibility request to ensure the suitability of the accessible format or communications supports.

WEBSITES AND WEB CONTENT

The Integrated Regulation deals specifically with website and web content. Large organizations will be required to make websites and web content conform with the World Wide Web Consortium Web Content Accessibility Guidelines.

For large organizations, new internet websites and web content on those sites must conform with the guidelines by January 1, 2014. Subsequently, all internet websites and web content must conform with the guidelines except for certain specifically excluded criteria by January 1, 2021.

EMPLOYMENT STANDARDS

Unlike the Customer Service Standards, the Employment Standards apply to employees only and not to volunteers or other non-paid individuals.

The Employment Standards will require organizations to:

TRANSPORTATION STANDARDS

There are many new transportation accessibility standards relating to the availability of accessible information and in relation to equipment, emergency preparedness and response policies, fares for support persons and the responsibilities etc. of transportation service providers.

COMPLIANCE

Part V of the Integrated Regulation provides for compliance mechanisms applicable to both this Regulation and the Accessibility Standards for Customer Service Regulation.

There are specific provisions in place regarding the amount of any administrative penalty that can be imposed by the Director. The grounds for the imposition of such administration penalty and the quantum is to be determined by severity of impact, contravention history and the nature of the entity be subject to the fine.

There are definitions for minor, moderate and major issues in respect to the severity of impact and contravention history.

The maximum fine imposed for a corporation is \$100,000 and in the case of an individual or unincorporated organization the maximum fine that may be imposed is \$50,000.

TIMING

Subject to any specifically or separately-mandated provision in the Integrated Regulation, the requirements of the Integrated Regulation are to be accomplished by large organizations by January 1, 2014 and by small organizations by January 1, 2015.

A thorough reading of the new Integrated Regulation should be on everyone's end of summer reading agenda in order to ensure the road to compliance is well in hand.

If you have any questions about your organization's obligations or require assistance in developing and ensuring compliance with the Integrated Accessibility Standards, please contact us for assistance.

- develop and notify employees and members of the public of the availability of accommodation for applicants with disabilities in an employer's recruitment processes;
- notify applicants who are individually-selected to participate in the employer's assessment or selection processes that accommodations are available upon request and to notify successful applicants of policies dealing with accommodation;
- consult with employees and provide employment policies and information needed to perform the job in accessible formats and provide communications supports as required;
- in the case of a large organization, develop and have in place a written process for the development of accommodation plans for employees with disabilities. This process must include a number of prescribed items, including a description of how the employee requesting accommodation can participate in the development of the individual accommodation plan;
- in the case of a large organization, develop and document a return to work process for its employees who have been absent from work due to disability and require disability-related accommodation(s) in order to return to work;
- take into account the accessibility needs of employees with disabilities as well as individual accommodation plans when using its performance management processes, providing career development and advancement and considering re-deployment.