

AODA UPDATE: NEW EMPLOYMENT STANDARD REQUIREMENTS RIGHT AROUND THE CORNER

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Private and not-for-profit employers with 50 or more employees in Ontario (large organizations) take note. Significant obligations under the Employment Standard to the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) will take effect in the New Year.

In addition to the existing requirement that employers provide individualized workplace emergency response information to employees with disabilities, large organizations will have to meet the following requirements starting January 1, 2016:

- **Recruitment, assessment and selection.** Internal and external job applicants, including applicants who have been invited to participate in a recruitment, assessment or selection process, must be notified that accommodations for disabilities are available on request. Employers have the flexibility to notify applicants in a way that best fits their existing organizational culture and business practices.
- **Informing employees of supports.** Employers must also notify successful applicants, new and existing employees about their policies for supporting employees with disabilities. Fresh notice must be given whenever an existing policy is changed.
- **Accessible formats and communication supports.** On request, employers must consult with employees who have disabilities in order to provide them with the accessible formats and communications supports needed to do their jobs effectively. The most appropriate support will depend on the specific needs of the employee and the capacity of the employer to provide the support.
- **Documented individual accommodation plans.** Written accommodation plans must be developed for employees with disabilities of which the employer has been made aware. Some key points to consider when developing plans include:
 - i. how each employee can be involved in the development of their individual plan;
 - ii. how the employer can seek outside expert evaluation so that they can provide effective supports; and
 - iii. how and when plans will be reviewed and updated.
- **Career development and advancement.** When providing career development and advancement

opportunities, employers must do so in a manner that takes into account the accessibility needs of employees with disabilities.

- **Performance management.** If an employer uses performance management in respect of its employees, it must use processes that take into account the accessibility needs of employees with disabilities.
- **Redeployment.** When transferring employees to new positions, employers must use redeployment processes that consider their individual accessibility needs (so that employees can continue to have their accommodation needs met).
- **Return to work processes.** Employers must develop return to work processes that document the steps they will take to help employees who have been absent due to disability.

Private and not-for-profit organizations with 1 – 49 employees in Ontario (small organizations) will have until January 1, 2017 to meet the same obligations (other than documented individual accommodation plans and return to work processes, which do not apply to small organizations).

Other Requirements for 2016

On top of the requirements under the Employment Standard, large and small organizations will have to provide information and communicate in an accessible manner to members of the public who have disabilities about their goods, services or facilities by January 1, 2016 and 2017, respectively.

As of January 1, 2016, small organizations must also meet the following requirements that already apply to large organizations:

- make processes for receiving and responding to feedback available to persons with disabilities in accessible formats and with appropriate communication supports; and
- train employees, volunteers, those who influence policies and all others who provide goods or services on behalf of the organization about the requirements in the Integrated Accessibility Standards Regulation to the AODA and the Ontario *Human Rights Code*.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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