

NEW YEAR, NEW AODA REQUIREMENTS

Posted on December 28, 2016

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When the calendar turns over on January 1, 2017, private and not-for-profit organizations with 1-49 employees in Ontario (small organizations) will be impacted by several new requirements under the Employment Standards to the Accessibility for Ontarians with Disabilities Act, 2005 (AODA).

In addition to existing obligations,^[1] small organizations will have to meet the following requirements effective January 1, 2017:

- **Recruitment:** Employers must notify their employees and members of the public about the availability of accommodations for applicants with disabilities in recruitment processes. Employers have the flexibility to notify employees and members of the public in ways that best fit their existing organizational culture and business practices.
- **Assessment and selection.** During recruitment processes, employers must notify job applicants who have been individually selected to participate in an assessment or selection process that accommodations are available upon request in relation to the materials or processes that will be used. If a selected applicant requests accommodation, the employer must consult with him or her, and provide or arrange for the provision of a suitable accommodation.
- **Informing employees of supports.** Employers must also notify successful applicants, new and existing employees about their policies for supporting employees with disabilities. At a minimum, we recommend that Employers include the following statement in all written offers to new employees:

“The Company has policies to support employees with disabilities, including, but not limited to, policies regarding the provision of job accommodations that take into account an employee's accessibility needs due to disability. For more information, please contact (Name/Title).”

Fresh notice must be given whenever an existing policy is changed.

- **Accessible formats and communications 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.

- **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 departments or positions, employers must use redeployment processes that consider individual accessibility needs (so that employees can continue to have their accommodation needs met following the transfer).
Note that private and not-for-profit organizations with 50 or more employees in Ontario (large organizations) were required to meet the foregoing obligations as of January 1, 2016 (or, in some cases, even earlier).

Other New Requirements

On top of the new requirements under the Employment Standards, small organizations will also have to meet the following new requirement under the Information and Communications Standards starting January 1, 2017:

- **Accessible formats and communications supports.** Small organizations must provide information and communicate in an accessible manner to members of the public who have disabilities about their goods, services and/or facilities.^[2]

All organizations with 20 or more employees (including large organizations) must confirm their compliance with these and other existing requirements by submitting an accessibility compliance report by no later than December 31, 2017. Organizations that fail to meet their obligations in a timely manner could also face monetary fines imposed by the Director of the Accessibility Directorate of Ontario.

by Paul Boshyk

[1] For example, to 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 AODA and the Ontario Human Rights Code.

[2] Additional new requirements may apply in certain prescribed circumstances. For example, if an organization prepares emergency procedures, plans or public safety information and makes the information available to the public, the organization must provide the information in an accessible format or with appropriate communications supports, as soon as practicable, upon request.

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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