

Workplace Accessibility And The Upcoming AODA Compliance Deadlines



The *Accessibility for Ontarians with Disabilities Act, 2005* (the “AODA”) requires Ontario businesses and non-profits with 20 or more employees to submit an accessibility compliance report every three (3) years. Beginning in 2014, accessibility compliance reports were required to be filed in 2017 and again in 2020, but as mentioned in our previous article, the deadline to file the 2020 accessibility compliance report was extended to **June 30, 2021** by the Ontario government. With the deadline now fast approaching, organizations must review any accessibility areas they need to address in order to certify compliance with AODA requirements by this new deadline (to the extent they have not already done so).

AODA Compliance Reports

The AODA sets out the processes for developing and enforcing accessibility standards. The goal of the AODA is to make Ontario more accessible and inclusive for people with disabilities. To achieve accessibility, the AODA’s *Integrated Accessibility Standards Regulation* established a series of accessibility standards which cover five core categories, including customer service, information and communication, and employment (the “Accessibility Standards”).

The accessibility compliance report is intended to be an organization’s self-assessment of its compliance with the provincial accessibility requirements, including a confirmation that the organization is complying with the Accessibility Standards.

Electronic copies of the applicable form can be downloaded here from the Ontario government’s website.

Before completing the report, employers should review and assess whether their organization is providing the right resources and taking the proper steps to make their workplace accessible in accordance with the employment-related requirements of the Accessibility Standards (the “Employment Standards”).

AODA Employment Standards

The Employment Standards require organizations to make their workplaces and employment practices accessible to potential and current employees with disabilities. This includes accessibility requirements in respect of

recruitment, hiring, accessible formats and communication supports, workplace emergency response information, performance management and career development. When filling out the accessibility compliance report, employers should consider whether their organization:

- has an accessible recruitment process for job applicants;
- has made candidates aware that accommodation is available during the recruitment process;
- consults with a selected applicant who has made an accommodation request;
- notifies successful applicants of policies for accommodating employees with disabilities;
- informs employees of policies in place to support employees with disabilities;
- consults with the employee upon request to provide accessible formats and communication supports for workplace information;
- provides updated and accurate individualized workplace emergency response information to employees with disabilities to assist during an emergency at the workplace;
- takes into account the specific accessibility needs of employees with disabilities when implementing any performance management process;
- accounts for the difference between disability-related issues and performance-related issues in the performance management process; and
- accounts for the specific accessibility needs of employees with disabilities when providing career development and advancement.

In addition to the above, businesses and non-profit organizations with 50 or more employees are also required to have written procedures regarding their return to work processes and documented individual accommodation plans for employees with disabilities. The return to work process must include the steps that will be taken by the employer to transition the employee back to work following a disability-related absence. With respect to creating individual accommodation plans, the employer's written processes should include how:

- an employee requesting accommodation can take part in developing the plan;
- the employee will be assessed on an individual basis;
- an employee can request that a representative from the workplace or union can take part in developing the plan;
- the employer can request an evaluation by an outside medical or other expert, at the employer's expense, to assist the employer in determining if or how accommodation can be achieved;
- confidentiality of the worker's personal information will be protected;
- the plan will be reviewed and updated and how often;
- denial of an individual accommodation plan will be explained and dealt with, if applicable; and
- the plan will be given in a format accessible to the worker.

Although the accessibility compliance report asks a series of "yes or no" questions, organizations should be prepared to expand upon their answers if required. When reviewing the accessibility reports, Directors of the AODA can ask an organization for more details about their compliance and the organization must provide this information upon request.

Accessible Websites

As a reminder, as of January 1, 2021 business and non-profits with 50 or more employees were required by the AODA to comply with the more stringent WCAG 2.0 Level AA guidelines with respect to their websites and web content (other than the criteria relating to live captions and pre-recorded audio descriptions). The Ontario government has provided detailed guidance about how organizations can comply with these upcoming AODA requirements by making their websites accessible (see [LINK](#)).

Takeaways for Employers

Ontario employers should take steps to determine if they are required to file an accessibility compliance report and ensure that they are in compliance with their AODA obligations, including those that took effect this year. Employers that fail to file their compliance reports may find themselves flagged for an audit by the Accessibility Directorate of Ontario.

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