

The Human Rights Code and the Accessibility for Ontarians with Disabilities Act (AODA)

In 2005, the Ontario Government passed the *Accessibility for Ontarians with Disabilities Act* (AODA).

The goal of the AODA is to create a fully accessible Ontario by 2025, by removing and preventing barriers.

The AODA created mandatory accessibility standards that all organizations must meet; The Customer Service Standard, and the Integrated Accessibility Standards Regulation (IASR) which includes information and communications, employment, transportation and the design of public spaces.

One requirement of the IASR is training all staff about how the Ontario Human Rights Code (the “Code”) and how it works with the AODA related to people with disabilities, which this Fact Sheet outlines.

The Code and AODA work together to promote equality and accessibility. The Code offers protection of rights, equal opportunity, and freedom from discrimination. It applies to jobs, housing, and services, and states that employers, landlords, and service providers must accommodate people with disabilities to the point of undue hardship. The Code and the AODA are laws that work together. Where the two may conflict, the Code should be considered first.

Barriers to Accessibility

Barriers can include:

- Physical barriers
- Information and communications barriers
- Systemic or attitudinal barriers.

Inclusive planning and design can help prevent barriers, for example, creating a new website that considers the needs of people with disabilities, and complies with appropriate AODA standards.

Defining Disability

The AODA and the Code use the same definition of disability. “Disability” covers a broad range and degree of conditions, some visible and some not visible. A disability may have been present from birth, caused by an accident, or developed over time. There are physical, mental and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, and other conditions. ***Disabilities are not always visible.***

Accommodation

Under the Code, employer’s and service providers have a duty to accommodate an employee or client accessing service as fully and promptly as possible, until ‘undue hardship.’ What works for one person may not work for everyone, and the individual’s needs must be considered. Everyone involved must participate in the accommodation process.

When requesting accommodation, an employee or client must provide information about their disability-related needs and help identify possible solutions. The employer or service provider must:

- Accept requests in good faith
- Only ask for relevant information
- Act promptly
- Actively seek solutions and ask for expert help where needed
- Respect the dignity and privacy of the person requesting accommodation
- Provide an individual accommodation plan

Undue Hardship

The Code states that employers have a duty to accommodate until undue hardship, and this is a legal obligation under the Code. Undue hardship is when severe negative affects outweigh the benefits of providing accommodation, and there is a very high standard of proof required to claim undue hardship.

A claim of undue hardship would consider:

- The cost of the accommodation
- Whether there are external funding sources to reduce accommodation costs, and
- Health and Safety considerations. Accommodation cannot violate occupational H&S regulations or put other people at risk.

Applying Human Rights Principles

When implementing AODA standards, organizations should follow human rights principles and Code obligations. This includes keeping in mind:

- When making changes to facilities, services, and technology, not to reinforce or create new barriers.
- Design inclusively. Make choices that work for as many people as possible, while meeting individual needs.
- Favour integration – usually the best accommodations allow people with disabilities to participate in similar ways with everyone else.
- Equal outcomes sometime require different treatment. Different or separate accommodations may be necessary to help people do their jobs or access services.
- Involve those who need accommodations to explore solutions.

Three Organizations in the Human Rights System

The **Ontario Human Rights Commission** provides policies, guidelines and other information on Code grounds, including disability and the duty to accommodate.

The **Human Rights Tribunal of Ontario** hears discrimination claims on any Code ground.

The **Human Rights Legal Support Centre** helps people through the human rights process, such as completing an application or claim to the Tribunal.

For more information please access the Ontario Human Rights Commission e-learning resource *Working Together: The Code and The AODA*.

<http://www.ohrc.on.ca/en/learning/working-together-code-and-aoda>