
ONTARIO CHARITIES AND NOT-FOR-PROFITS WILL NEED TO MEET ACCESSIBILITY STANDARDS IN 2012

*By Terrance S. Carter**

A. INTRODUCTION

Since January 1, 2010, government offices, ministries, and municipalities have been required to comply with the accessibility standards for customer service prescribed in Ontario Regulation 429/07 (“the Regulation”) entitled *Accessibility Standards for Customer Service* under the *Accessibility for Ontarians with Disabilities Act, 2005* (“the Act”). Beginning January 1, 2012, those standards will apply to all providers of goods and services within the province of Ontario, including charities and not-for-profit organizations. The regulation requires that providers of goods and services establish policies, practices, and procedures governing the provision of its goods or services to persons with disabilities and mandates that reasonable efforts be taken to ensure that the provider’s policies are consistent with certain prescribed principles in this regard.

B. PURPOSES AND PRINCIPLES

In recognition of the history of discrimination against persons with disabilities in Ontario, section 1 of the Act states that the Act’s purpose is to benefit all Ontarians by developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025, and by providing for the involvement of persons with disabilities in the development of the accessibility standards. In order to accomplish these goals, the Act permits the Lieutenant Governor in

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Council to make regulations establishing accessibility standards which will apply to certain organizations or persons. Ontario Regulation 429/07, *Accessibility Standards for Customer Service* is the applicable regulation (“Regulation”).

C. KEY PROVISIONS OF THE REGULATION

1. Establishment of policies, practices and procedures

Under the Regulation, providers of goods and services are required to establish policies, practices, and procedures governing the provision of goods or services to persons with disabilities. Providers of goods and services are to take reasonable efforts to ensure that their policies are consistent with the following principles:

- The goods or services must be provided in a manner that respects the dignity and independence of persons with disabilities.
- The provision of goods or services to persons with disabilities and others must be integrated unless an alternate measure is necessary, whether temporarily or on a permanent basis, to enable a person with a disability to obtain, use or benefit from the goods or services.
- Persons with disabilities must be given an opportunity equal to that given to others to obtain, use and benefit from the goods or services.

Goods and service providers are to specifically address the use of assistive devices by persons with disabilities to obtain, use or benefit from the provider’s goods or services, and must also ensure appropriate communication with persons with disabilities, taking that person’s disability into account.

Organizations which employ 20 or more people are subject to additional documentation requirements under most sections of the regulation. Such requirements provide for the mandatory preparation of written documentation regarding the organization’s policies, practices, and procedures, and the need to make them available upon request. The documentation requirements can be quite extensive, and therefore all organizations which employ 20 or more people should be familiar with what is required by the Regulation. The Ontario government has published a number of helpful guidance documents at

<http://www.mcss.gov.on.ca/en/mcss/programs/accessibility/ComplyingStandards/toolsToHelpYouComply.aspx>.

2. Use of service animals and support persons

Providers of goods and services will be required to allow people with disabilities to be accompanied by their guide dog or service animal in areas of their premises that are open to the public, unless the animal is otherwise excluded by law. If a service animal is excluded by law, other measures are to be made available to provide the person with a disability access to services.

The Regulation also requires accommodation for people with disabilities who use a support person, which will allow them to bring the support person with them while accessing goods or services. Where admission fees are charged, notice is to be provided ahead of time on what admission fee, if any, would be charged for a support person of a person with a disability

3. Notice of temporary disruptions

If, in order to obtain, use or benefit from a provider's goods or services, persons with disabilities usually use particular facilities or services of the provider and if there is a temporary disruption in those facilities or services, the Regulation states that the provider shall give notice of the disruption to the public. The notice should be posted in a conspicuous place, such as the window of the premises or on a service provider's website, and should explain the reason for, and expected duration of the disruption, and should describe any alternative facilities that may be available.

4. Training for staff

Every person who is employed by an organization in the delivery of its goods or services or who assists the organization in developing its policies, practices and procedures governing the provision of goods or services will be required to receive ongoing training regarding the provision of goods and services to persons with disabilities. The training must specifically address:

- How to interact and communicate with persons with various types of disability.

- How to interact with persons with disabilities who use an assistive device or require the assistance of a guide dog or other service animal or the assistance of a support person.
- How to use equipment or devices available on the provider's premises or otherwise provided by the provider that may help with the provision of goods or services to a person with a disability.
- What to do if a person with a particular type of disability is having difficulty accessing the provider's goods or services.

5. Feedback process

The Regulation requires goods and service providers to establish a process for receiving and responding to feedback regarding the manner in which it provides goods or services to persons with disabilities. Information about the process must be made readily available to the public and must specify the actions that the organization is required to take if a complaint is received. The feedback process must permit feedback to be given in person, by telephone, in writing, or by electronic means.

D. ANNUAL REPORTING REQUIREMENT

Section 14 (1) of the *Accessibility for Ontarians with Disabilities Act, 2005* requires a person or organization to whom an accessibility standard applies to file an accessibility report with the director annually or at such other times as the director may specify. By operation of Ontario Regulation 430/07, this requirement will initially apply only to organizations which have 20 or more employees. Accessibility reports can currently be filed online through the Service Ontario website. More information is available online at <http://www.mcass.gov.on.ca/en/mcass/programs/accessibility/ComplyingStandards/toolsToHelpYouComply.aspx>.

E. CONCLUSION

Although the Regulation will not apply to non-government goods and service providers until January 2012, charities and non-profits in Ontario would be well advised to begin preparations so that they will be able to comply with the *Accessibility Standards for Customer Service* when the Regulation applies to them next year. The government of Ontario has published a number of helpful guidance documents on the Ministry of Community and Social Services website to assist organizations in this regard. It is highly recommended that organizations to whom the regulation applies review and become familiar with these publications. The documents can be accessed directly using the links provided above, or by visiting the ministry's designated website regarding Accessibility for Ontarians with disabilities at <http://www.mcsc.gov.on.ca/en/mcsc/programs/accessibility/>.