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Association of Ontario**

*The right to learn, the power to achieve*

## **Learning Disabilities Association of Ontario**

Response to the proposed Integrated Accessibility Regulation  
October 2010

The Learning Disabilities Association of Ontario (LDAO) and its 20 community based chapters represent the interests of persons with learning disabilities (LDs) throughout Ontario. In the more than forty years since its formation, LDAO has expanded its activities and services to include youth and adults who have learning disabilities, in postsecondary and employment sectors, in addition to serving parents of children in elementary and secondary schools. Over the years, LDAO has regularly provided consultation and constructive recommendations on all government initiatives that affect persons with learning disabilities in Ontario.

LDAO has been involved in consultations about the development of the Ontarians with Disabilities Act (ODA) and then the subsequent development of the Accessibility for Ontarians with Disabilities Act (AODA). We were pleased to host Charles Beer in October 2009 as part of his AODA Public Review, and we submitted a written response to the Review.

LDAO welcomed the opportunity to have representation on committees for two standards that are vitally important for persons with learning disabilities: Information & Communication, and Employment Accessibility. The standards development process led to final Proposed Standards that would have had very important positive consequences for persons with learning disabilities.

Charles Beer's report recommended that the Accessibility Directorate harmonize the accessibility standards prior to releasing the remaining proposed standards as regulations. This recommendation makes sense in terms of harmonizing the timelines, so that obligated sectors are not confused and can make unified plans to meet the requirements of the standards. However, the resulting proposed Integrated Accessibility Regulation not only harmonized the timelines, but substantially changed some of the requirements of the three standards which were included.

The following points outline our serious concerns about the alterations and omissions in sections of the proposed Integrated Accessibility Regulation. The LDAO recommended changes or additions to the document(s) are in **red**. Current wording of the document(s) is in **blue**.

### **Proposed Accessibility Requirements**

#### **Part A: General Requirements**

##### **Scope and Class Structure:**

**LDAO recommends** the following changes to the **Scope and Class Structure**:

The scope should align with the Ontario Human Rights Code, in applying to provision of services, goods or facilities.

The class structure should follow the proposals of the standards development committees in creating a separate class for private and not-for-profit organizations with a larger number of employees, e.g. 100+ or 200+.

### **Policies and Practices:**

The proposed regulation is not strong enough in its requirements for policies and practices, and their documentation, by obligated organizations.

**Therefore LDAO recommends** the following changes/additions to **Policies and Practices**:

Policies must include

- a description of how the organization will meet requirements for accessible information and communication, employment and transportation
- procurement policies that address accessibility (*IC proposed standard 3.1 c*)
- a statement of commitment for meeting the needs of persons with disabilities in a timely manner that responds appropriately to the urgency of the situation (*IC proposed standard 3.1.1. b*)

Public sector organizations and private or not-for profit organizations with 50+ employees must prepare one or more written document(s) describing their accessibility policies, post an accessible copy of the document(s) on their website, and be able to provide a copy of the document(s) to any person who requests them in a format that meets the person's accessibility needs.

The Government of Ontario and every broader public sector organization must be required to establish and maintain procurement policies that ensure the accessibility of all new information and communication systems or services.

### **Training**

The section of the proposed Information and Communications standard that dealt with Members of Regulated Professions was excluded from the Proposed Accessibility Requirements. It is very important that such professionals have an understanding of the accessibility needs of persons with disabilities.

**Therefore LDAO recommends** that the section on **Training** make specific mention of training for members of regulated professions.

## **Part B: Accessible Information and Communications Requirements**

### **Accessible Formats and Communication Supports**

The opening statement must make it clear that provision of accessible formats and communications is required *whether or not the information is on an accessible website*, and it must meet accessibility needs, not just take into account the person's disability.

**Therefore LDAO recommends** the following changes/additions under **Accessible Formats and Communication Supports**:

- Every obligated organization will be required to provide or arrange for the provision of accessible formats and communication supports, upon request, for persons with disabilities,
  - In a manner that meets the accessibility needs of that person
  - At a cost that is no more than the regular cost charged to other persons

'Communication supports' needs to be clearly defined to include plain language and/or alternative and augmentative communication methods that are required to meet the accessibility needs of the person.

## Websites

The section on websites does not capture the intent of the Information and Communications Standards Development Committee's proposed standard.

**Therefore LDAO recommends** the following changes/additions to [Websites](#):

- Obligated organizations must be required to make new internet websites and **new content on existing websites** conform with W3C WCAG 2.0, initially at Level A, increasing to Level AA according to the compliance timelines that apply to the organization.

Requirements only apply to websites, web content and web-based applications that an organization can control either directly or through a contractual relationship, and where meeting the requirements are **technically possible**.

The use of the term **technically feasible** in the proposed regulation could be interpreted to include affordability issues, which was not the intent. Undue hardship should be the standard for affordability.

## Educational and Training Resources and Materials

Members of the Information & Communications Standard Development Committee spent many hours working on the section of the proposed standard that dealt with Educational Institutions. A main concern was the inequitable delays in getting course materials in alternative formats to students with print disabilities.

The new draft regulation does not improve accessibility for students with print disabilities at all. Educational institutions are already required to provide alternative formats *upon request* under Ontario Human Rights legislation. If educational institutions or educational libraries wait for a student request, and then producers of educational and training materials wait for a request from the educational institution or library, we are still in the same inequitable situation where students have to wait for their educational materials in alternative format and are at a disadvantage compared to other students.

The only way to remedy this discriminatory situation is to require educational institutions and libraries to procure educational materials in accessible or conversion-ready formats when they are ordering print versions of those materials.

**Therefore LDAO recommends** that the wording of the Proposed Accessibility Requirements use the wording of the final proposed Information and Communications standard:

- Public or private elementary, secondary or post-secondary educational or training institutions will be required to:
  - procure accessible or conversion-ready electronic formats of educational and training materials for recipients with disabilities *before or at the same time* as other recipients  
(IC proposed standard 7.2.1)
- Producers of educational and training materials for educational institutions will be required to:
  - make accessible or conversion-ready electronic materials available to educational institutions *before or at the same time* as the print formats of the materials  
(IC proposed standard 7.2.2)
- Libraries of educational institutions will be required to:
  - procure an accessible or conversion-ready electronic format of all new text-based or multi-media materials purchased for library holdings when available.  
(IC proposed standard 7.2.3)

The new section on [Training to Educators](#) is good, but it does not talk about including information on accessibility in the curriculum of programs that teach students to develop information and communication products. These students will be creating future products which should include accessibility features in the initial design. Section 7.2.4 of the proposed Information and Communications standard covered this topic.

**Therefore LDAO recommends** that requirements for training for developers of information and communication resources be incorporated in the new Proposed Accessibility Requirements.

### Part C: Accessible Employment Requirements

LDAO supported the recommendations in the proposed Employment Accessibility standard, especially the inclusion of the concept of an individual accommodation plan. Many of the important features of the proposed standard were carried over to the Proposed Accessibility Requirements of the Integrated Regulation. However, some very important items were omitted.

Section 4.2 on *Job Information* in the proposed Employment Accessibility Standard was not included in the Proposed Accessibility Requirements and the information on assessment and selection included in the new [Recruitment](#) section does not mention essential duties of the job. For individuals with disabilities, and especially for those with learning disabilities, it is very important to have a detailed description of job duties, including those essential for the job, when applying for a job, in order to know if and what accommodations they might need. The concept of essential duties of the job is integral to accommodation under Ontario Human Rights legislation.

**Therefore LDAO recommends** that the following clauses be reinstated under [Recruitment](#):

- **When recruiting, both internally and externally, organizations shall, upon request, provide information about the essential duties of the job.** (*Employment proposed standard 4.2.1*)

- Where organizations use assessment and selection materials and processes, organizations shall ensure that these assessment and selection materials and processes measure the applicant against the essential duties of the job. (*Employment proposed standard 4.4*)

Section 5.2 on *Training for new job duties* in the proposed Employment Accessibility Standard was not included in the Proposed Accessibility Requirements, and there is no statement about providing accommodations in training. Employees are entitled to such accommodations, which can help ensure success in their jobs.

**Therefore LDAO recommends** that the following clause be reinstated under [Employees and Accommodation](#):

- Employees with individual accommodation needs or plans undertaking new job responsibilities shall be provided with training on essential job duties consistent with those needs or plans. (*Employment proposed standard 5.2.2*)

### **Proposed Compliance Enforcement Initiatives**

In its submissions to the Government of Ontario on both the Ontarians with Disabilities Act (ODA) and the Accessibility for Ontarians with Disabilities Act (AODA), LDAO clearly stated that there was need for a strong compliance process. LDAO recommended the creation of “an accessible process whereby a person or organization can launch a complaint about non-compliance with a standard. The complaint mechanism should include a mediation process for dispute resolution and an appeal process where the complaint is not resolved.”

The [Proposed Compliance Enforcement Initiatives](#) do not include any provisions for persons with disabilities to make complaints or even to make their concerns known to the Accessibility Directorate. The ministry has developed a helpdesk for obligated organizations, but there is no such mechanism for persons with disabilities and/or the organizations that represent them.

The establishment of accessibility standards was designed in part to lessen the need for persons with disabilities to make individual applications to the Human Rights Tribunal of Ontario (HRTO). As the obligated organizations are moving toward implementation of the accessibility standards, there must be an avenue for persons with disabilities to report on noncompliance to the standards, without having to go to the HRTO.

**Therefore LDAO recommends** that a mechanism be set up within the Accessibility Directorate for persons with disabilities and/or the organizations that represent them to take concerns and complaints about inadequate compliance to accessibility standards. This mechanism must be accessible and include a report of follow-up from the Accessibility Directorate.

Thank you for the opportunity to provide feedback and recommendations on the proposed Integrated Accessibility Regulation on behalf of the Learning Disabilities Association of Ontario and the constituents we represent, who make up the largest group of persons with disabilities in Ontario.