



**Learning Disabilities Association of Ontario
Response to the Proposed Integrated Accessibility Regulation**

March 2011

The Learning Disabilities Association of Ontario (LDAO) welcomes the opportunity to respond to the latest version of the **Proposed Integrated Accessibility Regulation under the Accessibility for Ontarians with Disabilities Act, 2005**.

In October 2010 LDAO submitted a detailed response to the September 1, 2010 version of the Proposed Integrated Accessibility Regulation. At that time LDAO joined many other organizations, including the AODA Alliance and the Ontario Human Rights Commission, in expressing serious concerns about the alterations and omissions in sections of that proposed Integrated Accessibility Regulation, compared to the final Proposed Standards submitted by the standards development committees.

The version released for consultation on February 1, 2011 does show improvements in some sections of the regulation, and we congratulate the Accessibility Directorate for the areas where they listened to feedback. However there are still a number of sections where we have serious concerns that the accessibility needs of persons with learning disabilities are not adequately taken into account. **The regulation as it stands will not make information, communications and employment accessible for individuals with learning disabilities.**

LDAO's concerns and suggestions for improvement are outlined below. Wording from the current version of the Proposed Integrated Accessibility Regulation is in **blue**.

Part 1 General

LDAO recommendation:

As recommended in our previous submission, 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. 200+, with shorter timelines than the currently designated large organization group.

Establishment of accessibility policies

The proposed Integrated Accessibility Regulation says:

3. Establishment of accessibility policies

1. Obligated organizations, other than small organizations, shall include a statement of organizational commitment to meet the accessibility needs of persons with disabilities in a *timely manner* in their policies.

LDAO recommendation:

The term *timely manner* should be expanded to include *timely manner that responds appropriately to the urgency of the situation* (IC proposed standard 3.1.1. b).

Procuring or acquiring goods, services or facilities

The proposed Integrated Accessibility Regulation says:

5. Procuring or acquiring goods, services or facilities

1. The Government of Ontario, Legislative Assembly and designated public sector organizations shall incorporate accessibility criteria and features when procuring or acquiring goods, services or facilities, except where it is *not practicable* to do so.

LDAO recommendation:

The term ‘not practicable’ in this and other contexts should be defined to mean *not possible without undue hardship*. This is the standard of Human Rights legislation, and without precise definition ‘not practicable’ would be widely open to interpretation.

Part 2 Information and Communications Standards

Accessible formats and communication supports

The proposed Integrated Accessibility Regulation says:

12. Accessible formats and communication supports

1. Except as otherwise provided, every obligated organization shall upon request provide or arrange for the provision of accessible formats and communication supports for persons with disabilities,
 - a. in a *timely manner* that takes into account the person’s accessibility needs due to disability; and
 - b. at a cost that is no more than the regular cost charged to other persons.

LDAO recommendation:

The term ‘timely manner’ should be expanded to include *timely manner that responds appropriately to the urgency of the situation* (IC proposed standard 3.1.1. b).

The proposed Integrated Accessibility Regulation says:

2. The obligated organization shall consult with the person making the request in determining the suitability of an accessible format or communication support, but the final determination as to which accessible format or communication support shall be used rests with the organization.

LDAO recommendation:

This wording needs to be rephrased to make it clear that the final determination **must be in line with Human Rights legislation**.

Accessible websites and web content

14. Accessible websites and web content

LDAO recommendation:

There should be an additional statement that *obligated organizations are required to make available, upon request from a person with a disability, any information on the organization's website in an accessible format that meets the accessibility needs of that person, where it is technically feasible to do so without undue hardship.*

Educational and training resources and materials, etc.

The proposed Integrated Accessibility Regulation says:

15. Educational and training resources and materials, etc.

1. Every obligated organization that is an educational or training institution shall do the following, if notification of need is given:
 1. Provide educational or training resources or materials in an accessible format that takes into account the accessibility needs due to a disability of the person with a disability to whom the material is to be provided by,
 - i. procuring through purchase or obtaining by other means an accessible or conversion ready electronic format of educational or training resources or materials, where available, or
 - ii. arranging for the provision of a comparable resource in an accessible or conversion ready electronic format, if educational or training resources or materials cannot be procured, obtained by other means or converted into an accessible format.

LDAO recommendation:

A statement should be added that *every effort must be made by the educational or training institution to provide accessible versions of educational or training resources or materials to the student with a disability **at the same time as other students in the same program or course.***

When this is not possible **alternative measures** must be taken to enable the person with a disability to fully participate in the program or course.

Producers of educational or training material

The proposed Integrated Accessibility Regulation says:

17. Producers of educational or training material

1. Every obligated organization that is a producer of education or training textbooks for educational or training institutions shall upon request, make accessible or conversion ready versions of the textbooks available to the institutions.
2. Every obligated organization that is a producer of print-based educational or training supplementary learning resources for educational or training institutions shall upon request, make accessible or conversion ready versions of the printed materials available to the institutions.

LDAO recommendation:

*Producers of educational or training material need to **make available** accessible or conversion ready versions of textbooks or printed supplementary learning resources **at the same time as print versions** of the material and **provide** the accessible or conversion ready versions **promptly upon request**.*

The point here is that if the producers do not have accessible or conversion ready materials **available** at the time of purchase of print based materials, they will not be in a position to **provide** them in a timely manner so that a student can use them at the beginning of a program or course.

Timelines for this section are **much too long**. Producers of educational and training material in other jurisdictions are already providing accessible or conversion ready materials to educational institutions.

Part 3 Employment Standards

Recruitment, assessment or selection process

The proposed Integrated Accessibility Regulation says:

23. Recruitment, assessment or selection process

1. During a recruitment process, an employer shall notify job applicants, when they are individually selected to participate in an assessment or selection process, that accommodations are available upon request in relation to the materials or processes to be used.

2. If a selected applicant requests an accommodation, the employer shall consult with the applicant and provide or arrange for the provision of a suitable accommodation in a manner that takes into account the applicant's accessibility needs due to disability.
3. The decision as to which accommodation is to be provided rests with the employer.

LDAO recommendation:

The wording in 3 needs to be rephrased to make it clear that the decision as to which accommodation is to be provided **must be in line with Human Rights legislation**.

As outlined in our previous submission, **LDAO recommends** that the following clauses be reinstated under **Recruitment, assessment or selection process**:

- 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*)

The essential duties of the job are very important as that is the standard used in Human Rights contexts. It is important for a person with a disability to know the essential duties of the job in order to decide what jobs to apply for and what accommodations would be needed.

Accessible formats and communication supports for employees

The proposed Integrated Accessibility Regulation says:

26. Accessible formats and communication supports for employees

1. The employer shall consult with the employee making the request in determining the suitability of an accessible format or communication support, but the final determination as to which accessible format or communication support shall be used rests with the employer.

LDAO recommendation:

Again, this wording needs to be rephrased to make it clear that the final determination **must be in line with Human Rights legislation**.

Performance management

The proposed Integrated Accessibility Regulation says:

30. Performance management

1. An employer that uses performance management in respect of its employees shall take into account the accessibility needs of employees with disabilities, as well as individual

accommodation plans, when using its performance management process in respect of employees with disabilities.

LDAO recommendation:

The wording of this statement should be amended to read “*take into account whether the accessibility needs of employees with disabilities **have been addressed** and the individual accommodation plans **have been implemented***”

Career development and advancement

The proposed Integrated Accessibility Regulation says:

31. Career development and advancement

In this section,

“career development and advancement” includes providing additional responsibilities within an employee’s current position and the movement of an employee from one job to another in an organization that may be higher in pay, provide greater responsibility or be at a higher level in the organization or any combination of them and, for both additional responsibilities and employee movement, is usually based on merit or seniority, or a combination of them.

LDAO recommendation:

“Career development and advancement” needs to be defined to include *training for the new duties involved*.

Part 5 Compliance

As in the previous version, the Compliance section does 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 (HRTTO). 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 HRTTO. **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.