

FREQUENTLY ASKED QUESTIONS ABOUT THE AODA

GENERAL

What is the definition of a “disability”?

The definition of disability under the AODA is the same as the definition of disability in the Ontario Human Rights Code. In this Act, “disability” means,

- a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- b) a condition of mental impairment or a developmental disability,
- c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language
- d) a mental disorder, or
- e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997;

The definition includes disabilities of different severity, visible as well as non-visible disabilities, and disabilities the effects of which may come and go.

EXAMPLES:

1. A person with arthritis has a disability that over time may increase in severity.
2. A person with a brain injury has a disability that is not visible.
3. A person with multiple sclerosis has a disability that causes her to experience periods when the condition does not have an effect on her daily routine and other periods when it does.

It is important to understand that information about a disability is personal and private and must be treated confidentially. In most cases it will not be necessary to ask for proof of a disability.

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Who has to comply with the AODA?

All organizations in Ontario, with 1 or more employees must comply with the AODA requirements. This applies to organization in the public, private, and nonprofit sectors of Ontario, including all municipalities in the province as well as ministries and agencies of the Ontario government.

Organizations can visit [Ontario.ca/Accessibility](https://www.ontario.ca/accessibility) to determine their specific requirements.

How do I count the number of employees that I have?

Employee size is determined by identifying the organization's peak employee count at any one time over the previous twelve-month period.

When determining whether the AODA applies to your organization and what size your organization is (see next question), count all full-time, part-time, seasonal, and contract workers.

In determining the size of your organization, do not count volunteers and independent contractors such as plumbers and electricians

How does the AODA define an organization's size?

Under the Customer Service Standard, a small organization has between 1-19 employees and a large organization has 20+ employees.

Under the IASR and the requirements therein, the definition is slightly different. A small organization is one with 1-49 employees and a large organization is one with 50+ employees.

What is the definition of an employee under the AODA?

An employee is someone in an employee-employer relationship with an employer. An employer needs to determine who is included as an employee based on the individual situation or circumstances. In most situations it is clear whether someone is an employee or not. Usually this will depend on whether you pay the employee wages or a salary, have control over the work assigned to the employee, and have a right to control the details of the work.

However, even if someone is not an employee as defined by the AODA, they may still require AODA training, as in the case of volunteers and some independent contractors who represent your organization.

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What if I am self-employed?

If you are self-employed, either as a sole proprietor or in a partnership, you should not count yourself as an employee in determining how many employees you have. In this situation you and any business partner that you may have are not employees. However, any other individuals who work for you may be considered employees depending on the nature of the relationship.

If you run your own business and it is incorporated, you may be an employee of the corporation along with other employees you have.

Does a property owner need to comply with the AODA?

If the owner of a property has incorporated that ownership, then the property owner is considered an employee of the business and therefore the business must comply with the AODA.

If an organization is renting/using another's premise to deliver services who is responsible for compliance with the AODA?

The location of the service does not matter, rather it is who is providing the service that determines who is accountable for compliance with the AODA.

What if the AODA conflicts with other laws?

If two laws conflict with one another, Section 38 of the AODA states that the law that provides the higher level of accessibility is the law that must be followed.

How is the AODA enforced?

The AODA allows for enforcement of the standards through inspections, compliance orders and administrative penalties.

What does it mean “to provide goods or services to the public”?

Organizations use many different words to describe the members of the public they serve, including customers, clients, members, patients, constituents, parishioners, congregants, patrons and consumers. Under the Customer Service Standard, providing services to the public means providing goods or services that members of the public are allowed to use.

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What does it mean to provide goods or services to third parties?

The Customer Service Standard also applies to persons or organizations who make goods or services available to other third parties and who have one or more employees— other businesses, the government or other organizations. This includes property owners, consultants, manufacturers and wholesalers as well as providers of other business and professional services. Under the customer service standard, providers of goods or services to third parties must comply with the same requirements as the providers who serve the public.

What are some examples of “providers of goods or services”?

- Here are some examples of businesses you may have within your BIA that provide goods or services to the public:
- Stores, restaurants, hotels, bars and hair salons;
- Garages, service stations, home renovators, architects and builders;
- Hospitals and health services;
- Schools, universities and colleges;
- Organizations that operate public places and amenities, such as recreation centres, public washrooms, malls and parks;
- Municipal and provincial governments and the programs and facilities that they run, including social assistance services, public meetings, public transit, libraries, and employment centres;
- Provincially regulated utilities;
- Travel agencies, tour operators, amusement parks, farmers’ markets and travelling fairs;
- Police, ambulance, fire and court services;
- Manufacturers and wholesalers;
- Professionals, such as doctors, dentists, chiropractors, physiotherapists, lawyers, and accountants, whether services are offered to individuals or to businesses;
- Consultants, programmers, engineers and event planners;
- Charities and non-profit organizations;
- Theatres, stadiums and conference centres;
- Places of worship, such as churches, synagogues, mosques and temples; and
- Unions and professional associations.

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Do my goods have to be accessible?

The Customer Service Standard does not set accessibility requirements for the goods themselves, but rather the way that they are provided to customers. Anyone with a disability has the right to access your goods or services.

What if another company provides some of my services?

If you are a provider with responsibilities under the customer service standard, you must ensure that the policies, procedures and practices that govern the provision of your goods or services are compliant with the standard regardless of who is providing the goods or services on your behalf.

For example, a provider may contract or pay another company to provide billing and collections services or delivery and installation services on its behalf. As the provider that contracts to another company you must still ensure the second company fulfills your obligation under the standard. You would need to ensure, for example, that the second company providing delivery and installation services, meets your obligations under the standard. If the goods or services are provided in Ontario, this applies even if the second company has no staff in Ontario.

What are the deadlines for compliance?

All businesses and organizations are responsible for being in compliance with accessibility standards on January 1st in the year they come into effect.

All businesses and organizations must report being in compliance by December 31st of their reporting years.

The next reporting year for the private sector is 2017.

The deadlines for compliance and reporting can be found at Ontario.ca/accessibility

FREQUENTLY ASKED QUESTIONS ABOUT THE AODA

TRAINING

Do we have to train our event volunteers? Our Board Members? Interns? What about staff that don't have contact with the public? Committee members?

Customer Service Standard

Training must be given to:

- Everyone in your organization who deals with members of the public as well as other third parties who act on your behalf.
- Everyone who develops policies, procedures and practices about the provision of goods or services to the public or other third parties.

This includes full-time, part-time and contract staff, volunteers and anyone that provides goods or services on your behalf.

This also includes management and senior leaders of an organization if they direct, monitor or evaluate policies on how goods or services are provided.

IASR

Organizations are required to train persons in their organization on the requirements of the Accessibility Standards in the Regulation, as well as on disability-related obligations under the Ontario Human Rights Code.

This training applies to:

- All employees and volunteers – including paid and unpaid positions;
- Persons who participate in developing an organization's policies – this may include business owners, independent operating regulated professionals, etc.; and
- All other persons who provide goods, services or facilities on behalf of the organization – including outsourced services, such as facilities management, payroll and contact centres. All organizations (except private and not-for-profit with 1-49 employees) must keep records of the number of people who were trained, and the dates that training was provided.

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WEBSITES

Do we have to make our website accessible?

As of January 1, 2014 all organizations with 50 or more employees that create new internet websites and web content on those sites must conform with WCAG 2.0 Level A.

A “new” website means:

- a site with a new domain name (i.e. a brand new website address, and not a new page or link on the existing site); or
- a site with an existing domain name undergoing a significant refresh. Significant refresh may include, but is not limited to, a new look and feel, changes to navigability, or the majority of content is being updated or changed.

By January 1, 2021, all internet websites and web content must conform with WCAG 2.0 Level AA, other than success criteria 1.2.4 Captions (Live) and success criteria 1.2.5 Audio Descriptions (Pre-recorded).

Do mobile apps need to be made accessible and meet AODA requirements?

Mobile applications (smart phone applications/mobile apps) that are internet-based would have requirements under the standard. Mobile applications that are not internet-based would not have requirements. Organizations will need to assess their mobile application to determine whether it is internet-based or not.

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SERVICE ANIMALS

How are service animals and guide dogs defined?

i. Readily apparent

It is “readily apparent” that an animal is a service animal when it is obvious by its appearance or by what it is doing. For example, it may be readily apparent that an animal is a service animal if it is wearing a harness, saddle bags, a sign that identifies it as a service animal or has a certificate or identification card from a service animal training school or an identification card from the Attorney General of Ontario. It may also be readily apparent if a person is using the animal to assist him or her in doing things, such as opening doors or retrieving items.

EXAMPLE: A cafe has a customer who is blind and uses a guide dog to get around. The cafe allows the customer and his dog to use its facilities without any documentation as the individual is obviously using the dog because of his disability. Or, a BIA might have an office volunteer who is autistic and has a service animal to help reduce social stress.

ii. A letter from a doctor or nurse

Where an animal is not a trained guide dog and it is not readily apparent to an average, informed person that the animal is a service animal, you may ask the person using the service animal for a letter from a doctor or nurse that says the animal is needed because of a disability. The letter need only explain that the animal is required because of a disability. The letter does not need to identify the disability, why the animal is needed or how it is used.

Who must take care of a service animal while its owner is accessing goods or services?

It is the responsibility of the owner of the service animal to provide for the maintenance and care of the service animal while accessing an obligated organization’s goods or services.

Can I let service animals into my restaurant?

People with disabilities accompanied by a service animal can go wherever the public regularly has access. They will be permitted to keep the service animal with them unless the animal is excluded by another law such as a kitchen where food is prepared.

If the service animal is not permitted on the premises, the business will need to ensure that alternate methods are available to the customer/client accessing our services. It is the responsibility of the customer to ensure that their service animal is kept under control at all times.



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What should I do if I'm unsure if an animal is a service animal or not?

If it is not obvious that the animal is a service animal, the customer may be requested to provide a letter from a physician or nurse confirming that they require the animal for reasons relating to their disability, or for a valid identification card/training certificate from a recognized service animal training school.