

## **ONTARIO HUMAN RIGHTS CODE AND THE ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT**

This training handout describes our organization's rights and responsibilities under the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act. All small organizations, which includes BBBSP, are required to provide training to employees and volunteers on how these laws work together for persons with disabilities.

For easier reading, we'll call the Ontario Human Rights Code "the Code" and the Accessibility for Ontarians with Disabilities Act "the AODA".

The Code's goal is to provide for equal rights for everyone in Ontario. The Code directs that people with disabilities must be free from discrimination where they work, live, and receive services, and their needs must be accommodated.

The goal of the AODA is for Ontario to be fully accessible for people with disabilities by 2025, through developing and enforcing mandatory accessibility standards in key areas of daily life. These standards are being staged into effect over a number of years.

While the Code and the AODA work together, they have some important differences.

The Code offers protection of rights, equal opportunity, and freedom from discrimination. It applies to jobs, housing, and services. One of the grounds for discrimination under The Code is 'disability'. The Code and the AODA use the same definition of disability. Disabilities can include physical limitations, mental health, cognitive or intellectual development, learning, hearing, or vision. They also can include epilepsy, substance addictions, environmental sensitivities, and workplace injuries. "Disability" should be interpreted in broad terms.

The focus of discrimination under the Code is on the effects of the distinction or exclusion experienced by a person and not on proof of physical limitations or the presence of an ailment. Under The Code, even minor illnesses or infirmities can be "disabilities" if a person can show that they were treated unfairly because of the perception of a disability

The term "Equal" is used quite a bit through the Code. Sometimes this means treating people the same way, but it may also mean treating people differently. The focus is on achieving equal outcomes.

Accommodating the individual needs of people with disabilities is a legal duty under the Code. Accommodation applies to not just people receiving services. Employers must accommodate employees when they cannot perform all of the duties of the job because of their disabilities.

The most appropriate accommodation is the one that best meets the individual needs of the person with a disability so there is no set formula for accommodation. Some accommodations

can benefit many people, but what works for one person may not work for others. Individual needs must be considered each time a person asks to be accommodated. An organization is only exempt from Accommodation if it would cause undue hardship. This refers to situations where severe negative effects outweigh the benefit of providing accommodation. If it's not possible to put the best solution in place, or if doing so results in undue hardship to the organization, there is a duty to take the next-best steps.

Disability itself is not a barrier, but barriers exist that can exclude people with disabilities. Barriers to accessibility prevent people with disabilities from fully taking part in the social and economic life of our communities.

- Physical barriers include things like providing steps but no ramps or elevators.
- Information and communication barriers can make it difficult for people to receive or give information, such as using unclear language or print that's too small.
- Systemic barriers can result from stereotypes or established practices, such as inflexible work hours that don't coordinate with Wheel-Trans bus schedules.
- And attitude can be the biggest barrier. 'Ableism' is a tendency to see people with disabilities as less worthy, underestimating their potential, or, excluding them from decisions that affect them.

Organizations need to identify and remove barriers before problems arise instead of waiting to answer individual accommodation requests or complaints.

The Code and AODA accessibility standards are laws that work together to promote equality and accessibility in Ontario. Understanding and applying human rights principles may help avoid potential human rights complaints and litigation.

If an organization is not complying with the requirements of the AODA, the Accessibility Directorate can enforce standards through mechanisms set under the law. The Directorate works with organizations having trouble meeting the standards in order to bring them into compliance. If an organization is not complying and discriminating against an individual or group, then a complaint can be filed under the Code. Organizations can suffer financial repercussions if found to be discriminating against an individual or group.

The objective of both the AODA accessibility standards and the Code is to promote equality and accessibility in Ontario and create a climate of respect where everyone feels part of the community and can participate fully. We should follow human rights principles and Code obligations when implementing the AODA standards as they come into effect. Keep these points in mind:

- Don't create new barriers: Don't make changes to facilities, services, goods, technology, or procedures that reinforce or create new barriers.
- Design inclusively: Make choices that work for as many people as possible, especially those with disabilities, while meeting individual needs.

- Favour integration over segregation: Usually the best accommodations allow people with disabilities to participate in similar ways with everyone else.
- Equal outcomes sometimes require different treatment: Different or separate accommodations may be necessary to help people do their jobs or access services.
- Involve those who need accommodations in exploring solutions. They often know what works best for them.
- Make sure the process and solutions meet the individuals' needs and promote privacy, dignity, and respect, and,
- Spread out accessibility costs: People with disabilities should not face costs for accommodations they need to do their job or receive a service.