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THE LAW SOCIETY OF UPPER CANADA

*Accessibility for Ontarians with
Disabilities Act, 2005 - Guide to Developing
a Customer Service Accessibility Policy*

November, 2011

Contents

I. Introduction.....	4
II. Overview of Legal Principles	6
A. Application.....	6
1. Determining the Number of Employees	7
B. Definition of Customer.....	7
C. Definition of Disability	7
D. Relationship to Other Laws, Rules and Regulations	8
E. Obligations to Adopt Policies, Practices and Procedures	9
F. Use of Personal Assistive Devices and Other Accessibility Measures.....	10
G. Communications	11
H. Support Persons	12
1. Defining Support Persons	12
2. Application.....	12
3. Confidentiality	13
I. Service Animals.....	14
1. Defining Service Animals.....	14
2. Application.....	15
J. When does the Rule Apply and Documentation - Support Persons and Service Animals.....	15
1. Premises	15
2. Requirement to Document – Firms with 20 or more Employees	16
K. Notice Regarding Disruptions in Service	16
L. Training	17
1. Recipients of Training.....	17
2. Training Content.....	17
3. Training Format.....	18
4. Timing of Training	18
M. Feedback Process.....	18

	1. Type of Process	18
N.	Enforcement of Standards	19
O.	Compliance Checklists	19
P.	Requirements for Medium and Large Firms	19
	1. Notification to Customers	20
	2. Provision of Information	20
Q.	Sample Policy	22
	1. Purpose and Commitment	22
	2. Definitions	23
	3. Application of Policy.....	23
	4. Providing goods and services to persons with disabilities	24
	5. Support Persons.....	24
	6. Service Animals	24
	7. Notice of temporary disruption.....	25
	8. Training for staff	25
	9. Feedback process	25
	10. Modifications to this or other policies	26
	11. Questions about this policy	26
	12. Maintenance of documents	26

I. Introduction

In 2005, the *Accessibility for Ontarians with Disabilities Act, 2005* (the *AODA*)¹ was enacted to improve accessibility for persons with disabilities. The goal is to make Ontario accessible by 2025 for everyone, including persons with disabilities.²

The *AODA* makes provisions for the development and adoption of regulations that have created or will create ‘accessibility standards’ that law firms must adopt. The ‘accessibility standards’ will include the following five areas:

- customer service;
- transportation;
- information and communications;
- employment; and
- built environment.

The *Accessibility Standards for Customer Service Regulation* (the *Customer Service Standards*)³ was adopted in 2007 under the *AODA*⁴, and are effective on January 1, 2012 for providers of goods and services.

As part of a series of guides created by the Law Society of Upper Canada (the Law Society)⁵ to assist law firms in developing their own resources (including providers of legal services, paralegal firms, legal clinics, legal departments and legal non-profit organizations)⁶, the Law Society developed this *Guide to Developing a Customer Service Accessibility Policy* (the *Guide*). The *Guide* is meant to assist law firms in developing the resources to comply with the *Customer Service Standards*.

¹ S.O. 2005, c. 11.

² The purpose of the *AODA* is stated as follows in Section 1: “[r]ecognizing the history of discrimination against persons with disabilities in Ontario, the purpose of this Act is to benefit all Ontarians by, developing (a) 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 (b) providing for the involvement of persons with disabilities, of the Government of Ontario and of representatives of industries and of various sectors of the economy in the development of the accessibility standards.”

³ O. Reg. 429/07 [*Customer Service Standards*].

⁴ *AODA*, *supra* note 1.

⁵ Law Society guides are available online at <http://rc.lsuc.on.ca/jsp/equity/policies-publications-reports.jsp>

⁶ The term law firm in this document will be used to include providers of legal services, paralegal firms, legal clinics, legal departments and legal non-profit organizations.

Providers under the *Customer Service Standards* are defined as “every person or organization that provides goods or services to members of the public or third parties and has at least one employee in Ontario”.⁷ This includes law firms in Ontario. Law firms and the legal profession are involved in a wide range of services to members of the public, for example,

- meeting with clients;
- providing corporate legal services to clients;
- representing clients before courts and tribunals;
- maintaining professional relationships with other lawyers and paralegals;
- delivering education programs;
- holding business development and social events.

The *Customer Service Standards* apply to all services provided to the public and third parties.

The *Integrated Accessibility Standards*⁸ were also adopted and have been in force since July 1, 2011. They establish accessibility standards relating to information and communications, employment and transportation. The *Integrated Accessibility Standards* have resulted in a notable change in human rights and accessibility law related not only to human resources practices, but also to how organizations in Ontario conduct business.

Among other things, private sector organizations, such as law firms, must establish accessibility policies and plans, in addition to incorporating accessibility criteria and features in the procurement or acquisition of goods, services or facilities. They will also be responsible for providing training on the Ontario *Human Rights Code (Code)*⁹ as it pertains to persons with disabilities.

Private sector organizations, including law firms, must comply with the relevant requirements under the *Integrated Accessibility Standards* at the latest on January 1, 2014,

⁷ *Customer Service Standards*, *supra* note 3 at s. 1(1).

⁸ O Reg. 191/11.

⁹ R.S.O. 1990, c. H.19.

except for a few sections that are effective January 1, 2012.¹⁰ A guide to assist law firms in implementing the *Integrated Accessibility Standards* will also be developed for the profession.

This *Guide* is only up-to-date as at the date of writing. When drafting a policy, firms should ensure that they comply with relevant and current legislation and jurisprudence. Any legislative or jurisprudential changes should be taken into account.

Firms should note that the *AODA* does not replace nor is it a substitute for requirements established under the *Code*. Neither does it negate obligations under *Rules of Professional Conduct*,¹¹ *Paralegal Rules of Conduct* or the *Code*.¹² It is a misconception that adherence to the *AODA* and/or its standards means that the *Rules*, *Paralegal Rules* or the *Code* is not applicable.

The *Guide* is divided as follows:

- Overview of Legal Principles;
- How Law Firms Should Approach the Sample Policy;
- Sample Policy.

II. Overview of Legal Principles

A. Application

The *Customer Service Standards* apply to designated public sector organizations and to “every other person or organization, including law firms, with one or more employee in Ontario that provides goods or services either directly to the public or to other third parties”. They do not apply to services provided internally within a law firm (e.g. services to employees).

¹⁰ The following sections must be complied with by January 1, 2012: “Organizations that prepare emergency procedures, plans or public safety information and make them available to the public must provide the information in an accessible format as soon as practicable, upon request.” (*Supra* note 8 at s. 13)

Individualized workplace emergency response information must be provided to employees who have a disability, if the disability is such that the individualized information is necessary and the employer is aware of the need for accommodation due to the employee’s disability. *Supra* note 8 at s. 27.

¹¹ Adopted by Convocation of the Law Society of Upper Canada on June 22, 2000, effective November 1, 2000 and amendments current to April 28, 2011.

¹² Adopted by Convocation of the Law Society of Upper Canada on March 29, 2007, effective May 1, 2007 and amendments current to April 28, 2011.

The *Customer Service Standards* contain additional requirements for law firms with 20 or more employees that are not imposed on smaller law firms, as described in the section entitled “Requirements for Medium and Large Firms” of this *Guide*.

1. Determining the Number of Employees

For the purposes of determining whether an organization has 20 or more employees, an employee is considered to be a person in an employee-employer relationship with the employer and includes support staff, paralegals, law clerks and associates. Determining whether an individual holds employee status with the firm is dependent on the particular circumstances of that individual. Usually this depends on whether the firm pays the employee wages or a salary, has control over the work assigned to the employee and has a right to control the details of the work.

All full-time, part-time and contract employees should be counted when determining whether the organization has 20 or more employees. Generally, volunteers and independent contractors are not included in the count.

Law firms are encouraged to consult the Ministry of Community and Social Services guides when determining whether they have 20 or more employees, more particularly in the context of partnerships or corporations.¹³

B. Definition of Customer

A customer is generally anyone who accesses the goods and services of a firm. The *Customer Service Standards* provide that the standards apply to organizations that provide goods and services to “members of the public and other third parties”. In the context of legal services, customers are typically referred to as “clients”. In this guide, the term “client” or “clients” will be used to refer to customers with disabilities who access the goods and services of law firms.

C. Definition of Disability

The definition of “disability” in the *AODA*¹⁴ is consistent with the definition of “disability” in the *Code*¹⁵ and is as follows:

¹³ *Guide: Accessibility Standards for Customer Service* (Toronto: Ministry of Community and Social Services, April 2009) at 15. “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...If you run your own business and it is incorporated, you may be an employee of the corporation along with other employees you have.” [*Guide: Accessibility Standards*].

¹⁴ *AODA*, *supra* note 1 at s. 2.

- 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 and non-visible and visible disabilities. Disability has been interpreted in case law under the *Code* as including a disability that may be the result of a physical limitation, an ailment, a social construct, a perceived limitation or a combination of all these factors.¹⁶ The focus is on the effects of the distinction, preference or exclusion experienced by the person and not on proof of physical limitations or the presence of an ailment.

D. Relationship to Other Laws, Rules and Regulations

The *AODA* complements rather than replaces other laws related to accessibility that may apply to law firms, such as the *Code*.¹⁷ It states that “nothing in this *Act* or in the regulations diminishes in any way the legal obligations of [...] any person or organization with respect to persons with disabilities that are imposed under any other

¹⁵ The *Code*, *supra* note 9.

¹⁶ See *The 2010 Annotated Ontario Human Rights Code* (Toronto: Carswell, 2010) for an outline of case law defining “disability” at 93-97.

¹⁷ *Customer Service Standards*, *supra* note 3 at s. 3; the *Code*, *supra* note 9.

Act or otherwise imposed by law". When there is a conflict between laws and/or regulations, the provision that provides the highest level of accessibility prevails.¹⁸

E. Obligations to Adopt Policies, Practices and Procedures

The *Customer Service Standards* specify that "every provider of goods or services shall establish policies, practices and procedures governing the provision of its goods or services to persons with disabilities".¹⁹ Law firms that have at least 20 employees in Ontario must prepare documents describing their policies, practices and procedures and, upon request, give a copy of a document to any person.²⁰

The policies, practices and procedures must be 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 and services to persons with disabilities must be *integrated*, unless an alternate measure is necessary to enable a person with disabilities to obtain the goods or services;
- Persons with disabilities must be given an *opportunity equal to that given to others* to obtain the goods or services.²¹

These principles are described by the Ministry of Community and Social Services as follows:

- *Dignity* means to treat persons with disabilities as "customers and clients who are as valued and as deserving of effective and full service as any other client. [...] people with disabilities [should not be treated] as an afterthought or [be] forced [...] to accept lesser service, quality to convenience."²²

¹⁸ AODA, *supra* note 1 at s. 38.

¹⁹ *Customer Service Standards*, *supra* note 3 at s. 3(1).

²⁰ *Ibid.* at s. 3 (5).

²¹ *Ibid.* at s. 3 (2).

²² *Guide: Accessibility Standards*, *supra* note 13 at 25.

- *Independence* means the “freedom from control or influence of others [...]. In some situations, it may mean the freedom to do things in a manner that is individually suitable.”²³
- *Integrated services* are those “that allow people with disabilities to fully benefit from the same services, in the same place and in the same or similar way as other customers. It means that policies, practices and procedures are designed to be accessible to everyone including people with disabilities.”²⁴
- *Equal opportunity* means “having the same chances, options, benefits and results as others [...]. They should not have to make significantly more effort to access or obtain services. They should also not have to accept less quality or more inconvenience.”²⁵

F. Use of Personal Assistive Devices and Other Accessibility Measures

Firm policies must address and “deal with the use of personal assistive devices by persons with disabilities to obtain, use or benefit from the provider’s goods or services or the availability, if any, of other measures which enable them to do so”.²⁶

Personal assistive devices are usually devices that people bring with them, such as a walker or a personal oxygen tank. Depending on the context, they may also include other tools such as a magnifying glass, hearing aid or screen reader software. Generally, these devices are relatively inexpensive.²⁷ A law firm may also provide assistive devices to its clients, such as the use of TTY lines (Text Telephone).

The policies of a firm might be general, such as a policy allowing people to use their personal assistive devices to access the services. If the firm offers any assistive devices that enable persons with disabilities to use its services (such as real-time captioning), the firm may wish to include information about such devices in the policies, practices and procedures.

²³ *Ibid.* at 27.

²⁴ *Ibid.* at 28.

²⁵ *Ibid.* at 29.

²⁶ *Customer Service Standards*, *supra* note 3 at s. 3(3).

²⁷ See Joe Dale, *Six Steps to marketing Employment for People who Have a Disability*, 2002. Over two-thirds of job accommodations cost less than \$500 (<http://www.odenetnetwork.com/2010/10/page/2/>). M. David Lepofsky, “A Report Card on the Charter’s Guarantee of Equality to Persons with Disabilities after 10 Years – What Progress? What Prospects?” (1997) 7 *National Journal of Constitutional Law* 263.

For general tips about providing legal services to people with disabilities, please consult *Providing Legal Services to People with Disabilities*²⁸ available at: <http://archdisabilitylaw.ca/?q=providing-legal-services-people-disabilities-0>.

G. Communications

The *Customer Service Standards* require that organizations take into account a person's disability in their communications with that person.²⁹

The purpose of this requirement is to promote effective communication by considering how each person with disabilities expresses, receives and processes communication. Some general approaches to promoting accessible communication are described below.³⁰

- *Make the original communication more accessible:* Sometimes communication can be made accessible if the requirements of persons with disabilities are considered during the planning stage of service provision. For example, using plain language can help to make a document easier to read for people with certain learning disabilities. Similarly, if Internet sites are created in a way that considers how assistive devices operate to help persons with disabilities access information online, the sites will likely be more accessible.³¹
- *Change the usual method of communication to meet an individual's requirements:* A alternate method of making communication accessible is to offer information in a different medium. For instance, an organization may offer alternative formats of print documents (e.g. large print and audio format).
- *Use assistive devices or services:* There are a variety of assistive devices or services that a provider might want to consider in communicating with clients with disabilities. For example, an office that provides detailed and sometimes lengthy information by phone might use a TTY to communicate with its clients who are Deaf, hard of hearing, have speech impairments or are deaf-blind.

²⁸ (Toronto: ARCH Disability Law Centre, 2011).

²⁹ *Supra* note 3 at s. 3(4).

³⁰ For a full discussion, see *Guide – Accessibility Standards*, *supra* note 13 at 33.

³¹ The World Wide Web consortium has released a set of guidelines to enhance website accessibility. The Guidelines explain how to make web content accessible to persons with disabilities. For further information see <http://www.w3.org/TR/WAI-WEBCONTENT/>.

There is a range of ways in which to communicate with a person with disabilities. A provider should use communication methods that take into account the person's disability in a particular situation in order to meet the requirements of the *Customer Service Standards* and legal obligations pursuant to the *Code*.

H. Support Persons

1. Defining Support Persons

The *Customer Service Standards* define a "support person" in relation to a person with disability as "another person who accompanies him or her in order to help with communication, mobility, personal care or medical needs or with access to goods or services".³² Personal support may include, but is not limited to, physically transferring an individual from one location to another or assisting an individual with eating or using the washroom. Support for medical needs may include, but are not limited to, monitoring an individual's health or providing medical support by being available in the event of a seizure.

A support person may be for example a paid professional, a volunteer, a family member or friend, a case worker or a social worker. Support persons do not necessarily need to have special training or qualifications.

2. Application

Firms must ensure that a person with disabilities who is accompanied by a support person is permitted to enter the premises together and that the person with disabilities has access to the support person while on the premises.³³

In some situations, an organization may require persons with disabilities to be accompanied by a support person. However, this is only in instances where a support person is necessary to protect the health or safety of the person with disabilities or the health or safety of others on the premises.³⁴ A determination of whether a support person is "necessary" usually occurs after consulting with a person with disability. A

³² *Customer Service Standards*, *supra* note 3 at s. 4(8).

³³ *Ibid.* at s. 4(4). If a person with disabilities is accompanied by a support person, the provider of goods or services shall ensure that both persons are permitted to enter the premises together and that the person with disabilities is not prevented from having access to the support person while on the premises."

³⁴ *Ibid.* at s. 4(5). "The provider of goods or services may require a person with a disability to be accompanied by a support person when on the premises, but only if a support person is necessary to protect the health or safety of the person with a disability or the health or safety of others on the premises."

consultation serves as a means to ascertain whether to allow the support person on the premises, while at the same time, fulfilling the firm's obligations to protect the health or safety of the person with disabilities or of others on the premises.

In deciding whether or not a support person is necessary, the following factors may be taken into consideration:³⁵

- *Personal risk:* Persons with disabilities are free to accept a reasonable risk of injury to themselves when not accompanied by a support person. Different individuals have a different tolerance for risk. Risk should be weighed against any benefit for the person with disabilities.

- *Assessing health and safety risks:* A support person must be necessary or essential to protect the health and safety of the person with disabilities before a firm requires that a support person accompany the person with disabilities. The provincial government's *Guide: Accessibility Standards* suggests the following considerations when determining whether a support person is required:
 - when there is a significant risk to the health and safety of the person with disabilities or others;
 - that risk is greater than the risk associated with other customers;
 - that risk cannot be eliminated or reduced by other means;
 - the assessment of the risk is based on consideration of the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm; and
 - the assessment of the risk is based on the individual's actual characteristics, not merely on generalizations, misperceptions, ignorance or fears about a disability.³⁶

3. Confidentiality

Support persons often play an essential role in assisting persons with disabilities. Upon consent of the person with disabilities, a support person may be present while

³⁵ *Guide: Accessibility Standards*, *supra* note 13 at 43-45.

³⁶ *Ibid.* at 44.

information is being exchanged between a lawyer and the client. The support person may also call the lawyer on the client's behalf, attend at meetings, and assist the client in communicating with the lawyer. The role of the support person may include providing moral support, acting as an interpreter, or assisting the lawyer in formulating questions in a manner best suited to the client.

The lawyer should ensure that it is the instructions of the client that are being received. A lawyer should also make every effort to assess whether there is a power imbalance between the client and the support person and whether the client has capacity to make independent decisions. To assess this, he or she may wish to meet with the client alone for part of the discussion to ensure that he or she is receiving instructions from the client.

Particular care should also be taken by the lawyer to ensure that there is no breach of confidentiality on the part of the support person and should consider the impact of privilege when a client is using a support person. It is the lawyer's responsibility to ensure that information exchanged between the lawyer and client remains confidential.³⁷

I. Service Animals

1. Defining Service Animals

Service animals are used by persons with various types of disabilities, including autism, mental disabilities and physical or dexterity disabilities. Examples of service animals are dogs used by persons who are blind and hearing alert animals for those who are Deaf, deafened or hard of hearing.

The *Customer Service Standards* define a guide dog by reference to section 1 of the *Blind Persons' Rights Act* which states that a guide dog is one that has been trained in 13 facilities listed in the *Guide Dogs* regulation or at any other designated guide dog training facility.³⁸

An animal is deemed to be a "service animal" in cases where it is "readily apparent that the animal is being used by the person for reasons relating to his or her disability" or

³⁷ ARCH Disability Law Centre, *Bar Admission Course, Professional Responsibility, Chapter 11: Providing Legal Services to Persons with Disabilities* (Toronto: Law Society of Upper Canada, 2005). Also see *Rules of Professional Conduct* (Toronto: Law Society of Upper Canada, 2000) at Rules 2.03 and *Paralegals Rules of Conduct* at Rule 3.03.

³⁸ *Guide Dogs*, R.R.O. 1990, Reg. 58.

where the person “provides a letter from a physician or nurse confirming that the person requires the animal for reasons relating to the disability.”³⁹

2. Application

Law firms must ensure that a person is permitted to be accompanied by a guide dog or other service animal in the areas that are generally open to the public or third parties.⁴⁰

There is an exception to the general rule. When another statute or regulation specifically states that animals must be excluded or when, by operation of another law, the animal is excluded, the service animal should not be permitted onto the premise or that area of the premise. Two examples of laws that specifically exclude animals are regulations under the *Health Protection and Promotion Act*⁴¹ and the *Food Safety and Quality Act, 2001*⁴². These laws restrict the use of service animals in areas where food is manufactured or prepared. Similarly, health and safety requirements may restrict the use of service animals.

Where an animal is excluded by law from the premises, the firm must ensure that other measures are available to allow the person with disabilities to obtain the services.⁴³ The firm may wish to explain to the individual why the animal is excluded and explore what other arrangements that can be made to provide the services. This might mean temporarily leaving the animal in a permitted and secure area or offering to serve the person in another location.

J. When does the Rule Apply and Documentation - Support Persons and Service Animals

1. Premises

The *Customer Service Standards* provide that the rules related to service animals and support persons apply only to the premises owned or operated by the provider of the

³⁹ *Customer Service Standards*, *supra* note 3 at s. 4(9).

⁴⁰ *Ibid.* at s. 4(2). “If a person with disabilities is accompanied by a guide dog or other service animal, the provider of goods or services shall ensure that the person is permitted to enter the premises with the animal and to keep the animal with him or her unless the animal is otherwise excluded by law from the premises.”

⁴¹ R.S.O. 1990, c. H.7.

⁴² S.O. 2001, c. 20.

⁴³ *Customer Service Standards*, *supra* note 3 at s. 4 (3).

goods or services where the public or third parties have access to the premises.⁴⁴ Organizations are considered to be operating a premise if they have control over it and are responsible for determining who is allowed to enter and exit the premises or areas of those premises. The rules would not apply, for example, to a lawyer who is employed by a law firm when he or she is working from home.

2. Requirement to Document – Firms with 20 or more Employees

Law firms with at least 20 employees in Ontario must prepare documents describing their policies, practices and procedures with respect to service animals and support persons.

K. Notice Regarding Disruptions in Service

The *Customer Service Standards* state “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 in whole or in part, the provider shall give notice of the disruption to the public”.⁴⁵ Such facilities or services could include escalators, elevators, accessible washrooms or TTY services. In the context of a law firm, disruption in services could include the disruption of legal services to clients.

The notice of disruption must include information about the reason for the disruption, its anticipated duration and a description of alternative facilities or services, if any.

Law firms should post the notice where people are likely to find it, for example, on the door to the premises, on the website, or by any other reasonable method that would get the information to people with disabilities seeking to access your services.

Law firms with at least 20 employees in Ontario must prepare a document that sets out the steps to be taken in connection with a temporary disruption and, upon request, provide a copy to any person.

⁴⁴ *Ibid.* at s. 4(1). “This section applies if goods or services are provided to members of the public or other third parties at premises owned or operated by the provider of the goods or services and if the public or third parties have access to the premises.”

⁴⁵ *Ibid.* at s. 5.

L. Training

1. Recipients of Training

The *Customer Service Standards* state “Every provider of goods or services shall ensure that the following persons receive training about the provision of its goods or services to persons with disabilities: every person who deals with members of the public or other third parties on behalf of the provider, whether the person does so as an employee, agent, volunteer or otherwise and every person who participates in developing the provider’s policies, practices and procedures governing the provision of goods or services to members of the public or other third parties.”⁴⁶

Determining which employees to train should not simply be based on a person’s job description. It should be based on what the person does in practice on a regular basis. For example, security guards may not have public interactions in their job description, but if they assist with addressing disturbances or providing directions when asked, they interact with the public.

It is anticipated that firms will have to provide training to almost all associates or partners of the firm, as they would interact with clients on a regular basis. Education would also likely be provided to, for example, summer students, law students and administrative staff who provide services to third parties. In this regard, the Ministry of Community and Social Services provides resources to assist private sector organizations.⁴⁷

2. Training Content

The *Customer Service Standards* provide that the training must include,

- a review of the purposes of the *AODA* and requirements of *the Customer Service Standards*;
- instruction on how to interact and communicate with people with various types of disabilities;
- instruction on how to interact with persons with disabilities who use assistive devices or require the assistance of a guide dog, other service animal or a support person;

⁴⁶ *Ibid.* at 6(1).

⁴⁷ Ministry of Community and Social Services online: <<http://www.mcsc.gov.on.ca/en/mcsc/programs/accessibility/index.aspx>>.

- instruction on how to use equipment or devices available on firm premises or that the firm otherwise provides, that may help people with disabilities access services; and
- instruction on what to do if a person with disabilities is having difficulty accessing firm services.⁴⁸

3. Training Format

Other than the content outlined above, the *Customer Service Standards* do not indicate the format of the training. Therefore, law firms could design their own training programs through, for example, orientation sessions, online modules, in a classroom setting.

4. Timing of Training

As the *Customer Service Standards* are applicable to law firms as of January 1, 2012, those who provide services to members of the public or third parties should participate in training before that date. Training must be provided as soon as practicable after an individual has been assigned duties that include interaction with the public, or development of policies, practices and procedures related to customer service.

A law firm must provide training, on an ongoing basis, in connection with changes to policies, practices or procedures on the provision of legal services to persons with disabilities.

M. Feedback Process

The *Customer Service Standards* require that firms establish “a process for receiving and responding to feedback about the manner in which it provides goods or services to persons with disabilities and shall make information about the process readily available to the public.”⁴⁹ The process must specify the actions that the provider of goods or services is required to take if a complaint is received.

All law firms with 20 or more employees must prepare a document describing its feedback process and, upon request, give a copy to any person.

1. Type of Process

The firm can structure its own feedback process as long as it permits persons to provide their feedback in person, by telephone, in writing, or by delivering an electronic text by

⁴⁸ *Customer Service Standards*, *supra* note 3 at s. 6(2).

⁴⁹ *Ibid.* at s. 7.

email or on diskette or otherwise.⁵⁰ The feedback process must specify the actions that the firm is required to take if a complaint is received.⁵¹

While the *Customer Service Standards* do not specify the format of the feedback process, the firm should bear in mind that the *Customer Service Standards* require any communication with a person with disabilities to take into account the person's disability.⁵²

N. Enforcement of Standards

The AODA sets out the mechanisms by which the accessibility standards will be enforced. Each person or organization bound by accessibility standards is required to file an annual accessibility report with a director appointed under the AODA. These reports must be publicly available.⁵³ With respect to the *Customer Service Standards*, the *Exemption from Reporting Requirements* regulation⁵⁴ exempts providers with fewer than 20 employees, other than designated public sector organizations, from reporting. Only designated public sector organizations and other providers of goods and services that have 20 employees or more are required to file accessibility reports.

The AODA also provides that inspectors will be appointed with the power to enter and investigate. Directors appointed under the AODA may order people or organizations to comply with an accessibility standard, file an accessibility report or pay an administrative penalty for contravening a standard.⁵⁵

O. Compliance Checklists

The Ministry of Community and Social Services published a *Compliance Manual*,⁵⁶ which includes checklists to assist service providers in complying with the *Customer Service Standards*. The manual is available on the website at:

http://209.167.40.96/units/unit_cust-serv-reg/doc_workbook/lang_en/files/Compliance-Manual_EN.pdf

P. Requirements for Medium and Large Firms

As mentioned earlier, if a law firm has 20 or more employees, it has the following obligations that smaller firms do not have:

⁵⁰ *Ibid.* at s.7 (2).

⁵¹ *Ibid.* at s. 7(3).

⁵² *Ibid.* at s.3 (4).

⁵³ AODA, *supra* note 1 at s. 14.

⁵⁴ O Reg. 430/07.

⁵⁵ AODA, *supra* note 1, s. 21(3).

⁵⁶ (Toronto: Ministry of Community and Social Services, October 2008).

- *Document in writing* all policies, practices and procedures for providing accessible customer service and meet other document requirements set out in the standard.
- *Notify customers* that the documents required under the *Customer Service Standards* are available upon request.
- *When giving documents* in response to a request to a person with disabilities, provide the information in a format that takes into account the person's disability.

Documentation

The documents that are required are as follows:

- one or more documents describing its policies, practices and procedures;⁵⁷
- one or more documents describing its policies, practices and procedures with respect to the use of service animals and support persons;
- a document that sets out the steps to be taken in connection with a temporary disruption;
- a document describing its training policy, including a summary of the contents of the training and details of when the training is to be provided;
- a document describing its feedback process.

1. Notification to Customers

Every firm with at least 20 employees in Ontario must notify persons to whom it provides services that the documents required by the *Customer Service Standards* are available upon request.⁵⁸ There is no specific rule about how the firm should inform the public. The notice may be given by posting the information at a conspicuous place on firm premises, posting it on the firm's website or by any other reasonable method.⁵⁹

2. Provision of Information

If the firm receives a request for a copy of a document from a person with disabilities, the firm must provide the document, or the information contained in the document, in a

⁵⁷ Customer Service Standards, *supra* note 3 at s. 3(5)

⁵⁸ *Ibid.* at s. 8(1).

⁵⁹ *Ibid.* at s. 8(2).

format that takes into account the person's disability. The firm and the person with disabilities may agree upon the format to be used.⁶⁰

For example, some persons with disabilities may use cassette tapes or digital audio formats to access information.

Some persons with disabilities may be able to use the documents in a variety of formats. For example a person who has low vision and has a digital audio player other electronic device and computer may be able to use several formats. They may be able to read a large print copy of a document or listen to a cassette tape or digital audio version of the document. They may also be able to read an electronic version (such as a version sent by e-mail or a mailed DVD) using a large print program on their computer. Other individuals, depending on their disability and circumstances, may have only one option. For example a person who is deaf-blind and who does not have access to an accessible computer may only use Braille.

⁶⁰ *Ibid.* at s. 9

Q. Sample Policy

Explanation

The sample policy included in this document is a precedent and is intended to provide guidance, rather than to represent the ultimate or ideal policy. The precedent applies to a legal environment composed of partners, associates and other staff, not subject to a collective agreement. Firms should adapt and tailor the precedents to their own structure and culture.

[Name of Firm]’s Customer Service Accessibility Policy

This policy is consistent with the *Accessibility Standards for Customer Service* (Customer Service Standard) made under the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA).

1. Purpose and Commitment

The Firm is committed to maintaining an accessible environment for persons with disabilities in the delivery of its goods and services.

The Firm will use reasonable efforts to ensure that its policies, practices and procedures governing the provision of its services to persons with disabilities are consistent with the following principles:

- goods and services are provided in a way that respects the dignity and independence of persons with disabilities;
- persons with disabilities are able to benefit from the same services, in the same place and in a similar way as other clients;
- persons with disabilities have opportunities equal to as others to obtain, use and benefit from the Firm’s goods or services.

2. Definitions

For the purposes of this policy:

“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*.

“Guide dog” means a dog trained as a guide for a person who is blind or visually impaired.

“Service animal” means an animal for a person with disabilities where it is readily apparent that the animal is used by the person for reasons relating to his or her disability or where the person provides a letter from a physician or nurse confirming that the he or she requires the animal for reasons relating to the disability.

“Support person” means, in relation to a person with disabilities, another person who accompanies him or her in order to help with communication, mobility, personal care or medical needs or with access to goods and services.

3. Application of Policy

This policy applies to Firm services that are provided externally to the public or third parties.

The policy applies to all lawyers, paralegals and staff at the Firm, agents, volunteers, clients, and visitors to the Firm. All areas of the Firm are accountable for providing accessibility to persons with disabilities.

4. Providing goods and services to persons with disabilities

The Firm is committed to excellence in serving all clients, including persons with disabilities, and will carry out its functions and responsibilities by,

- communicating with persons with disabilities in ways that take into account their disability.
- serving persons with disabilities who use assistive devices. The Firm will provide its staff with training on how to use the assistive devices available on the Firm premises.
- ensuring that persons with disabilities who are accompanied by their guide dog or other service animals are permitted to enter the premises of the Firm with the animal and to keep the animal with them, unless the animal is excluded by law from the premises.
- ensuring that persons with disabilities who are accompanied by a support person are permitted to enter the Firm's premises with their support person. At no time will persons with disabilities who are accompanied by their support person be prevented from having access to their support person while on the Firm premises.

5. Support Persons

Person with disabilities may enter the Firm's premises with a support person and have access to the support person while on the premises.

The Firm does not charge fees for support persons or if fees are charged for admission to the premises (e.g. special events), the Firm shall provide notice of the amount in advance.

The Firm may require persons with disabilities to be accompanied by a support person when on the premises, but only if a support person is necessary to protect the health and safety of the person with disabilities or the health or safety of others on the premises.

6. Service Animals

A person with disabilities may be accompanied by a guide dog or other service animal when on the Firm premises. In the event that service animals are excluded by law from the premises, the firm will provide other resources or supports to enable the person with disabilities to access the services and goods offered by the Firm.

7. Notice of temporary disruption

The Firm will notify the public in the event of a planned or unexpected disruption in the facilities or services usually used by persons with disabilities. This notice will include information about the reason for the disruption, its anticipated duration, and a description of alternative facilities or services, if available.

The notices will be posted at all public entrances and service counters of the Firm, or communicated by such method as is reasonable in the circumstances.

8. Training for staff

The Firm will train its staff and other individuals who provide services to the public on the Firm's behalf on the provision of its goods or services to persons with disabilities.

The training will be provided as soon as practicable after a staff commences his or her duties and will include the following topics:

- the purposes of the *Accessibility for Ontarians with Disabilities Act, 2005* and the requirements of the customer service standard;
- how to interact and communicate with persons with various types of disabilities;
- how to interact with persons with disabilities who use an assistive device or require the assistance of a guide dog, service animal or a support person;
- how to use or access the equipment or devices available on the Firm's premises or otherwise that may help with the provision of goods or services to persons with disabilities;
- what to do if a person with a particular type of disability is having difficulty in accessing the Firm's goods and services;
- the Firm's policies, practices and procedures relating to the customer service standard.

The Firm will provide training on an ongoing basis when changes are made to the Firm's policies, practices and procedures governing the provision of goods or services to persons with disabilities.

9. Feedback process

The Firm welcomes any feedback regarding the methods it uses to provide goods and services to persons with disabilities. Individuals may provide their feedback in person,

by telephone, in writing, or by delivering an electronic text by email or on diskette or otherwise to [insert contact information, including phone numbers, email and address].

Complaints may be made in writing to [insert contact person]. The [insert contact person] will review and assess every complaint received. Where possible, the [insert contact person] will address the issues. If a complaint cannot be addressed, the [insert contact person] will advise the complainant.

10. Modifications to this or other policies

Changes will not be made to this policy unless the impact of the changes on persons with disabilities has been considered.

Any Firm policy that does not respect and promote the dignity and independence of persons with disabilities will be modified or removed.

11. Questions about this policy

If anyone has a question about the policy, or if the purpose of the policy is not understood, please contact the [insert contact person including phone number, email and address].

12. Maintenance of documents

The Firm will maintain documents describing its policies, practices and procedures and, upon request, shall give a copy of a document to any person. The documents will include policies, practices and procedures with respect to the following:

- use of support persons;
- use of guide dogs or service animals;
- the steps to be taken in connection with a temporary disruption;
- the training policy, including a summary of the contents of the training and details of when the training is to be provided;
- records of the training provided under this policy, including the dates on which the training is provided and the number of individuals to whom it is provided;
- the feedback process.

The Firm will notify persons to whom it provides goods and services of its policies, by posting the information at a conspicuous place on the Firm premises, on the Firm website or by such method as is reasonable in the circumstances.

When required under this policy to give a copy of a document to a person with disabilities, the Firm will provide the document or information in a format that takes into account the person's disabilities.

Glossary of Terms

Accessibility - Accessibility is the degree to which persons with disabilities can access a device, service or environment without barriers. Accessibility is also a process - it is the proactive identification, removal and prevention of barriers to persons with disabilities.

Accessibility Standards – Regulations or rules created under the AODA that provide minimum levels for improving accessibility to meet the goals of the AODA across the province.

Public Sector Organizations – These organizations include the Legislative Assembly, ministries of the provincial government of Ontario and Ontario municipalities. Also included are most boards, commissions, authorities and agencies.

Personal Assistive Devices – Devices that a client may bring with them to a meeting.

Support Person - In relation to a person with disability as another person who accompanies him or her in order to assist with communication, mobility, personal care or medical needs or with access to goods or services

Goods and Services - Goods are tangibles things (e.g. laptop), while services are things that someone does for you but are not tangible (e.g. legal advice).

Annual Accessibility Report - A report that a person or organization must file if an accessibility standard applies to the person or organization.