

**Submission to the Province of Ontario
Standard Development Committee's
Review of the Employment Standard
(IASR, O. Reg. 191/11)**

City of Ottawa

26 April 2018

This feedback is submitted by the employees of the City of Ottawa in their professional capacity.

It should not be construed as the official position of Ottawa City Council.

Introduction

The City is pleased to be a champion of inclusive employment to all its staff. Clear employment standards provide employees with the means to request workplace accommodations and other supports that enhance both their work experience and productivity. On balance, City staff agree that the recommendations of the Standards Development Committee meet the spirit of the *Accessibility for Ontarians with Disabilities Act, 2005*.

Staff provide additional feedback on the eight (8) recommendations below.

Feedback: Improved clarity with the Ontario Human Rights Code

Recommendation 1: Improve and strengthen guidelines

That, “[The] government and the Ontario Human Rights Commission review and strengthen guidelines and clarification for employers with regard to the differences between Ontario Human Rights Code and the AODA’s Employment Standards.”

Concur. However, the government will need to provide additional tools and resources in regards to this messaging to properly support implementation.

Recommendation 2: Scope and interpretation (Section 20)

That, “[A] definition of “employee” [...] be added to the AODA or IASR and be consistently applied throughout [and that it be] be consistent with the intent and purpose of the AODA and should be based on the employer–employee relationship”.

Concur. Staff note that there is a need to consider the *Occupational Health and Safety Act* and the definition of “worker”. Where possible, these definitions should align to avoid confusion or conflict.

With respect to “Employee can be a term that may or may not encompass roles such as unpaid interns or contractors”, this should be clarified as “contractors” may be onerous on employers.

Recommendation 3: Recruitment, general (Section 22)

That, “Section 22, notice of availability of accommodations throughout recruitment by employers, [...] be expanded to include notice of availability of accommodation during employment”.

Concur. Once implemented, it would be helpful for municipalities to have some guidelines. That is, more detailed resources on accommodations, in general, would be helpful from the Accessibility Directorate of Ontario, separate from the Standard.

Recommendation 4: Recruitment, assessment or selection process (Section 23)

That, “Guidelines and best practices should be developed on how to make the recruitment, assessment and selection processes and materials inclusive by design”.

Concur. Staff suggest developing tools and resources to share in relation to the Customer Service Standard for engaging in supporting people in communication processes. This is relevant in both customer service and employment settings.

Recommendation 5: Notice to successful applicants (Section 23 & 24)

That, “The government [...] review, strengthen and better promote guidelines and best practices to clarify requirements under sections 23 and 24”.

Concur. Staff note that it would like to see some tools and resources to support employers in these discussions.

Adopting and distributing a voluntary access and participation questionnaire at the time of hiring or even for the interview process is a good idea. Therefore, the employee can express needs for accommodations in writing, or other accessible format and the conversation can be a follow up, making disclosure easier.

There is a need to link safety sensitive jobs (such as fitness for duty), bona fide job requirements and duty to accommodate in relation to the employment contract (speaking to specifics around human rights legislation).

Feedback: Workplace emergency response information

Recommendation 6: Emergency response information (Section 27)

That, “[The] word “individualized” be removed from Section 27”.

Concur. While the recommendation may remove some confusion, further revisions may be required to clarify that s.27 only pertains to the distribution/communication of emergency response information. Additional information should also be added to Section 28 to highlight the requirement to develop and review individualized accommodation plans, which may include an individualized emergency response plan. For instance, subsection 27(4) may fit better within s.28.

Individualized accommodation plans

Recommendation 7: Centralized portal for individual accommodation plans (Section 28)

That, “[The government [...] be responsible for a centralized portal for updated resources for individualized accommodation plan processes”.

Concur. More resources could always be helpful to guide this process.

Feedback: Return to work

Recommendation 8: Monitoring of return to work processes (Section 29)

That, “[The] government should monitor the implementation of Section 29, including any gaps and challenges to inform the next review of the accessible Employment Standards”.

Concur. Updated standards need to include clear links and reference to other legislation, such as the *Employment Standards Act*, in regards to return to work. Additional tools and resources for both employers and employees that are in line with the AODA need to be developed and shared.

Unifying the processes may assist with complex cases that cross these requirements and processes. Recommend engaging the disability insurance industry and Workplace Safety and Insurance Board (WSIB) in discussion to determine best approaches to avoid confusion and conflicting requirements.

Conclusion

Ensuring accessible employment practices not only benefits employees, but engenders a culture of accessibility in the workplace. Through enhanced clarity of the requirements under the employment standards, an inclusive workforce, supportive of people of all abilities, stands to benefit.

Thank you for the opportunity to provide our comments.

Contact :

Tyler Cox

Manager, Legislative Services / Gestionnaire, Services législatifs

City of Ottawa / Ville d'Ottawa

613-580-2424 ext. / poste 15636