



# AODA: is it in writing?

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As recently discussed [here](#), the AODA has a new set of requirements effective January 1, 2016. Many of these requirements are located in the Employment Standards, and as such are of particular importance to employers. This article focuses on certain of the AODA's 2016 requirements for which employers must develop a written process.

Pursuant to the Employment Standards (a subsection of the [Integrated Accessibility Standards](#)), employers are required to establish a number of internal practices with respect to the recruitment, accommodation and advancement of employees. Amongst these various requirements are two internal processes that employers must reduce to writing: (i) the creation of individual accommodation plans; and (ii) a return to work process.

## Individual Accommodation Plans

The AODA requires that employers with 50 or more employees in Ontario must develop a written process to determine and document the accommodation needs of employees with disabilities. By establishing a procedure for developing accommodation plans, employers will implement a consistent approach for accommodation of employees with disabilities. The Employment Standards mandate that the following elements must be included in the written process:

1. the manner in which the employee requesting accommodation can participate in the development of the individual accommodation plan;
2. the means by which the employee is assessed on an individual basis;
3. the manner in which the employer can request an evaluation by an outside medical or other expert, at the employer's expense, to determine how accommodation can be achieved;
4. the manner in which the employee can request the participation of their bargaining agent, or other representative (if not unionized), in the development of the accommodation plan;
5. the steps that will be taken to protect the privacy of the employee's personal information;
6. the frequency and manner in which the individual accommodation plan will be reviewed and updated;
7. if an accommodation plan is denied, the manner in which the reasons for denial will be proved to the employee; and
8. the means of providing the individual accommodation plan in an accessible format; and
9. if requested or required, include information regarding the employees accessible formats and communication supports provided, individualized workplace emergency response information and any other accommodation measures provided.

## Return to Work Process

Employers with 50 or more employees in Ontario are required to develop and implement a return to work process for employees that have been absent from work due to a disability and require disability-related accommodation in order to return to work. This process must be reduced to writing.

The written return to work process must:

1. outline the steps that the employer will take to facilitate the return to work of employees who were absent because their disability required them to be away from work; and
2. use individual accommodation plans (as discussed above) as part of the process.

Of note, if an individual's illness or injury is covered by the return to work provisions of the Workplace Safety and Insurance Act, then this process is not required for that individual and the WSIB's process applies.

### **Our View:**

We note that many employers have existing processes similar to those covered here in place, due to their requirements under the Human Rights Code. However, we recommend reviewing those processes to ensure that the elements set out above are captured, and that the processes are reduced to writing. Should your organization require assistance with achieving compliance with the AODA, please reach out to a member of our Employment and Labour Group.

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