

ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE UPDATE

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SEND US YOUR FEEDBACK ON THE DRAFT AODA ALLIANCE BRIEF ON THE FINAL PROPOSED EMPLOYMENT ACCESSIBILITY STANDARD

March 4, 2010

SUMMARY

The Ontario Government is planning to enact an Employment Accessibility Standard under the Accessibility for Ontarians with Disabilities Act. It appointed a Standards Development Committee to develop a proposal for this accessibility standard. The Employment Standards Development Committee has finished its work and has delivered a final proposal to the Government for an Employment Accessibility Standard. The Government now must decide whether to enact the final proposed Employment Accessibility Standard as recommended, or to make changes to it. We want to have our say on this important issue.

Below we set out a draft of the brief which the AODA Alliance is proposing to submit to the Ontario Government on the final proposed Employment Accessibility Standard. The Employment Standards Development Committee sent the Government its final proposal for the Employment Accessibility Standard last fall.

The AODA Alliance seeks your feedback on this draft brief. We want to consider any feedback we receive from our supporters before we finalize this draft brief, and submit it to the Ontario Government. We need feedback by Thursday, March 11, 2010. Send your feedback to:

aodafeedback@gmail.com

If you want to see the final proposed Employment Accessibility Standard, it is no longer on the Government's website. If you write us at the email address above to request a copy of the final proposed Employment Accessibility Standard, we would be happy to email it to you.

In this draft brief we focus on the most important issues that we raised in our May 13, 2009 brief on the initial proposed Employment Accessibility Standard, and which the final proposed standard does not sufficiently address. You can see our earlier brief at:

<http://www.aodaalliance.org/strong-effective-aoda/05192009.asp>

We summarize this new draft brief on the final proposed Employment Accessibility Standard as follows:

“The final proposed Employment Accessibility Standard, like the initial proposed Standard includes several helpful measures. The final proposal improves on the initial proposed Employment Accessibility Standard in several ways. However, unless the final proposed Employment Accessibility Standard is significantly strengthened, it will not come close to attaining its required goal of fully accessible employment for persons with disabilities by 2025. This brief provides a package of recommendations which would bridge that gap. We recommend that:

- a) Certain areas which the proposed Standard now addresses need to be strengthened.
- b) Many time lines must be shortened.
- c) The Standard needs to be significantly broadened to cover a range of important activities and barriers it doesn't now address.
- d) Specific provisions must be added to address the Ontario Government as employer.”

At the end of the draft brief is an appendix which lists all the 15 recommendations we make in the brief.

As always, we look forward to receiving your feedback.

DRAFT ONLY

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BRIEF OF THE ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE ON THE FINAL PROPOSED EMPLOYMENT ACCESSIBILITY STANDARD

MARCH 4, 2010 ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE

BRIEF OF THE ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE ON THE FINAL PROPOSED EMPLOYMENT ACCESSIBILITY STANDARD

March 4, 2010

(Note: This draft has not been approved by the AODA Alliance, and does not purport to represent the views of this organization.)

I INTRODUCTION

1. General

The Accessibility for Ontarians with Disabilities Act alliance submits this brief to the Ontario Government. It gives our feedback on the final proposed Employment Accessibility Standard dated August 12, 2009.

On May 13, 2009, we submitted a detailed brief on the initial proposed Employment Accessibility Standard. That brief is available at: <http://www.aodaalliance.org/strong-effective-aoda/05192009.asp>

We here adopt that brief's description of the AODA Alliance, the pressing need for a strong, effective Employment Accessibility Standard, and our vision of a barrier-free workplace for employees with disabilities. We also adopt that brief's formula for assessing any proposed Employment Accessibility Standard. We used that formula to assess this final proposed Employment Accessibility Standard. Finally, we adopt that brief's list of the principles that the Employment Accessibility Standard should implement.

It appears that the Employment Standards Development Committee adopted some but certainly not all of the recommendations in our May 13, 2009 brief. This brief re-submits and where needed, fine-tunes the highest priority recommendations in that earlier brief which do not appear to have been incorporated into the final proposed Employment Accessibility Standard.

2. Summary of Our Feedback

The final proposed Employment Accessibility Standard, like the initial proposed Standard includes several helpful measures. The final proposal improves on the initial proposed Employment Accessibility Standard in several ways. However, unless the final proposed Employment Accessibility Standard is significantly strengthened, it will not come close to attaining its required goal of fully accessible employment for persons with disabilities by 2025. This brief provides a package of recommendations which would bridge that gap. We recommend that:

- a) Certain areas which the proposed Standard now addresses need to be strengthened.
- b) Many time lines must be shortened.
- c) The Standard needs to be significantly broadened to cover a range of important activities and barriers it doesn't now address.
- d) Specific provisions must be added to address the Ontario Government as employer.

Appendix 1 gathers together all the recommendations made in this brief.

II CLAUSE BY CLAUSE FEEDBACK

1. Purpose of the Employment Accessibility Standard

The Employment Accessibility Standard needs to fully and correctly set out its purpose. It now says in section 1:

“1 Scope

The long term objective of this initial proposed employment accessibility standard is to set out policies, procedures and requirements for the identification, removal and prevention of barriers across all stages of the employment life cycle for persons with disabilities.”

This substantially understates the purposes of the Employment Accessibility Standard. The AODA requires that people with disabilities experience full accessibility to employment on or before 2025. Thus, the goal of the employment accessibility Standard should be the achievement of barrier free workplaces and full accessibility to employment for persons with disabilities on or before 2025.

If the standard’s objective is set too low, it will not live up to the mandatory goal that the Legislature set in the AODA. It is therefore recommended that:

#1. Section 1 of the Standard be amended to include a provision that states that the purpose of the Standard is to ensure that workplaces in Ontario are barrier free and that people with disabilities have equal access to employment and can fully participate in employment on or before 2025.

2. Definition of Classes

Section 2 defines classes of organizations for purposes of the Employment Accessibility Standard by reference to the number of an organization’s employees. When calculating the number of employees, it is important to add up the number of people working in all related-organizations. This will prevent an organization from wrongly being classified as a smaller organization, by the way it sub-divides its organizational structure.

We therefore recommend that:

#2 Section 2 be amended to provide that an organization’s classification will be assessed by regard to the number of employees in that organization and any related, jointly operated or co-managed organizations.

3. Employer’s Accessible Employment Policy Statement

Section 3.2 of the standard requires employers to adopt an accessible employment policy statement. To make these policy statements most helpful, it the standard should require an organization to make the policy statement accessibly public in a low-cost, easy way, e.g. on its website (if the organization has one), or by posting it in public places in the workplace. The extent to which this needs to be required can vary depending on the organization’s size.

It would also be very helpful for larger private sector organizations and all public sector organizations to be required to file a copy of these statements in electronic form with the Government. This would let the Government and the public track levels of compliance. If they are only filed electronically, not in hard copy, the Government will not be burdened by an excessive load of paper to sort and file.

It is therefore recommended that:

#3 Section 3.2 be amended to

a) require organizations to make public their accessible employment policy statements, e.g. via posting them on the web or in the workplace, and

b) require larger private sector organizations and all public sector organizations to electronically file their accessible employment policy statement with the Ontario Government.

4. Training

It is beneficial that section 3.3 provides for training of employees. It would be helpful to expand the topics that are covered in the training. It is implied that this would cover the Human Rights Code, since references in the standard are made to workplace accommodation. It would be helpful to clarify the standard to make it clear that training on the Human rights Code is included in this training.

We therefore recommend that:

#4. Section 3.3 be amended to also require training of all employees on:

- a) The duty under the Human Rights Code to identify, remove, and prevent workplace barriers, and the duty to accommodate employees and job applicants with disabilities.
- b) How employees and job applicants can seek and receive workplace accommodation.
- c) The duties of co-workers to facilitate workplace accommodation
- d) the duty of all to provide a welcoming environment in which to seek and receive workplace accommodation, and
- e) The benefits to employees and customers of workplace accommodation.

It is preferable in larger organizations for this training to be delivered in person, not on-line. That would enable employees to interact with each other, ask questions, and give feedback. We recognize that that is not practical for small organizations.

5. Job Advertisements

The provisions regarding advertising jobs in section 4.3 need to be expanded to provide employers with a cost-free way of reaching as many potential job applicants with disabilities as possible, without imposing a major cost burden especially on private sector employers.

We therefore recommend that:

#5. Section 4.3 be amended to require the Ontario government to set up a one-click network to which employers can send job postings, which the Government would then distribute to organizations that serve persons with disabilities.

6. Individual Accommodation Plans

The Standard has requirements on how organizations will deliver individual accommodation to employees with disabilities. We agree with the spirit of these. We want to be sure that employers have the flexibility they need to develop and deliver timely, effective workplace accommodation. We also want to be sure that non-bureaucratic procedures are in place to ensure that effective decisions on accommodation issues can be made. More involved processes are appropriate for large organizations (over 100 employees) or for public sector organizations.

At a minimum, it should be made clear within an organization to whom an employee with a disability makes an accommodation request, and, if there is any dispute, to whom the issue can be taken within the organization for a prompt resolution. In larger organizations, and public sector organizations, it is very beneficial for each major department, ministry or agency to designate one of their existing employees as the disability employment accessibility and accommodation coordinator. This does not mean that any new staff need to be hired for this purpose.

We therefore recommend that:

#6. Section 5.1's provisions regarding workplace accommodation plans be amended to ensure that:

- a) the process of developing and providing workplace accommodation is flexible and non-bureaucratic.
- b) It is clear to whom an employee makes an accommodation request;
- c) there is a speedy process within the organization for resolving any dispute or disagreement over an accommodation request;
- d) A public sector organization, and possibly a very large private sector organization, should designate an existing employee within their organization as the disability accessibility and accommodation coordinator to oversee workplace accommodation issues;
- e) If an employer declines to provide workplace accommodation to an employee or job applicant, the employer shall give the employee or job applicant its reasons for not providing any accommodation, or if further accommodation is requested but declined, the further accommodation.

7. Return to Work

The Standard includes a provision regarding return to work practices. It doesn't appear to have any real substance or teeth. It states:

“5.5 Return to work (non-WSIB)

Organizations shall adopt or develop, document and maintain a procedure for the return to work of employees who are absent from work as a result of a disability not related to a WSIB-related injury or illness.

Organizations shall document efforts made to return employees to work.”

A meaningful return to work provision would be beneficial. It would be helpful if this provision were expanded to include specifics. Otherwise an empty, toothless pro forma policy could be adopted that would fulfil the Standard, but that does little or nothing for employees with disabilities.

We therefore recommend that:

#7. Section 5.5 be amended to specify key minimum requirements of any return to work policy, aimed at maximizing the opportunity for return to work. These minimum requirements can vary depending on the class of organization, with less extensive requirements for smaller organizations.

8. Redeployment Policies

It is good that the Standard seeks to address the treatment of employees with disabilities in the redeployment process. However, the Standard needs more detail to make it effective. It now states:

“5.6 Redeployment

Where organizations have a procedure for redeployment, the procedure shall:

- a) apply to employees with disabilities;
- b) take into account individual accommodation needs or plans;
- c) include consultation with the employee and/or the employee's representative upon request.”

During any redeployment process, it is important where possible to protect employees with disabilities from being “bumped” into different jobs if bumping them will displace their workplace accommodation, or will confront them with additional workplace barriers. For example, an employee with a disability should not be bumped from a job in an accessible venue or workplace to a job in a less accessible workplace or venue.

In any redeployment process, account should be taken of the added time that an employee with disability-related accommodation needs may need to move from an existing or previous job to a new job.

We therefore recommend that:

#8. Section 5.5 be amended to specify minimum requirements for employees with disabilities involved in any redeployment process, which:

a) Take into account and effectively address any accommodation needs of employees with disabilities being redeployed, and

b) Protect, where feasible, employees with disabilities from being bumped from their job to another job if this will confront them with less accessibility or more workplace barriers.

9. Time Lines

Several timelines in the final proposed Employment Accessibility Standard are manifestly excessive. These should all be reviewed, and shortened wherever possible.

Employers have had a duty to accommodate employees and job applicants with disabilities since 1982. The time lines should be designed on this premise, not on an incorrect assumption that the Standard imposes a new, unprecedented, and unexpected duty on employers for the first time. Employers in each case should be able to more quickly implement some basic start-up action in each of these, areas, with a more involved initiative, if needed, coming on line later on. The Standard should in each case reflect this e.g. by setting appropriate interim benchmarks.

We set out a number of salient examples of excessive time lines:

a) Section 3.2 gives the Ontario Public Service one year to develop an accessible employment policy statement. Yet the Ontario Government has had comparable obligations under the annual accessibility plans mandated under the Ontarians with Disabilities Act 2001 for some eight years, apart from its obligations under the Human Rights Code dating back to 1982.

b) Section 3.4.1 gives the Ontario Government 2 years to undertake disability awareness training. Yet the Ontario Government has had obligations in this regard as well under s. 8 of the Ontarians with Disabilities Act 2001 for some 8 years. It provides:

“Government employees

8. (1) The Government of Ontario shall accommodate the accessibility needs of its employees in accordance with the Human Rights Code to the extent that the needs relate to their employment.

Applicants for employment

(2) The Government of Ontario shall accommodate the accessibility needs of persons with disabilities who apply for a position as a government employee and whom the Government invites to participate in the selection process for employment to the extent that the needs relate to the selection process.

Training

(3) The Government of Ontario shall ensure that its employees who have managerial or supervisory functions receive training in fulfilling the Government's obligations under this section.

Information

(4) The Government of Ontario shall inform its employees of the rights and obligations of the Government and its employees under this section.”

c) Section 4.1.1 would give all organizations except the Ontario Government fully 3 years to start advising job applicants about the availability of accommodation to their disability in the hiring process. It would give the Ontario Government 2 years to start. Yet this kind of accommodation is required under the Human Rights Code right now, and has been for well over two decades. There is no interest served by concealing it from job applicants.

d) Section 4.3.2 would give 2 to 3 years for organizations to start stating in job ads that accommodation will be provided to applicants selected for assessment. All these employers are bound to provide this kind of workplace accommodation now. There is no justification for not saying this in job ads, unless there was some belief that it was acceptable, despite the Human Rights Code, not to provide such accommodation.

e) Section 4.4 gives organizations between 3 and 5 years among other things to start ensuring that job assessment and selection materials and processes measure the applicant against the job's essential duties. This too has been an effective requirement of the Human Rights Code since 1982.

f) Section 4.5 and 5.1.1 together give organizations between 2 and 4 years to start advising a new employee or existing employee about the procedure for seeking workplace accommodation. Again, since accommodation of workers with disabilities has been required since 1982, simply telling them how to seek such accommodation should not await such an extraordinary period.

g) Section 5.1.3 gives organizations between 3 to 5 years to start giving an employee, seeking a workplace accommodation, an individual accommodation plan that follows procedures clearly rooted in longstanding Human Rights Code requirements. While the detailed documentation of this might await some start-up period, rudimentary requirements should go on line promptly, with interim benchmarks for more detailed procedures to come on line.

We therefore recommend that:

#9. All time lines in the standard be significantly reduced. There should be a compelling reason why any requirement does not go into effect promptly, especially for large private sector organizations and any public sector organizations. Where there is any delay in a requirement going into effect, interim benchmarks should be required so that employers don't believe they need to do nothing for employees and job applicants with disabilities in the interim.

III IMPORTANT AREAS THE STANDARD DOES NOT EXPLICITLY ADDRESS

The final proposed Employment Accessibility Standard needs to be expanded to address a number of important areas.

1. Pro-actively Working to Make the Future Workplace Barrier-Free

The proposed Employment Accessibility Standard's core focus is on putting in place formal procedures in each organization for an employee with a disability to request and receive an individualized workplace accommodation. These measures are helpful. Individual workplace accommodations will always be an important part of achieving equality for people with disabilities in the workplace.

However, alone, this won't ensure that Ontario workplaces become fully barrier-free by 2025. The "duty to accommodate" approach tends to assume that employers will carry on business as usual, leaving existing barriers in place, and possibly creating new barriers. When an employee or job applicant with a disability encounters one of these workplace barriers, they have the burden to present this problem to their employer and seek an accommodation. When an employer responds to an employee's request for an accommodation of a disability-related need, the employer is typically trying after-the-fact to alleviate or work around a barrier that has previously been created, and left in place.

In addition to responding to individual requests for workplace accommodation, it is necessary for employers to take pro-active steps to identify and remove existing barriers in the workplace that impede employees and job applicants with disabilities, and to prevent the future creation of new barriers, without awaiting accommodation requests. The workplaces of the future have not yet been built, or even designed. The workplaces that will exist five years from now will likely look quite different from those which exist today, just as the workplaces of today look quite different

from those that existed five or 10 years ago. The employment accessibility Standard provides an excellent means to help ensure in advance that changes to the workplace that are implemented over the next years work towards the goal of full accessibility.

Put another way, in any work place, and particularly in any large workplace, there are recurring accessibility needs that can be reasonably expected in advance, and for which an employer can readily plan. To do so reduces the need for and the cost of individual accommodation, and improves the workplace's productivity.

Where workplaces address these recurring accessibility needs in advance, employees with disabilities can thereafter less frequently need to seek individualized workplace accommodations to overcome workplace barriers. To the extent that employers reduce, eliminate or prevent the creation of workplace barriers, the need for accommodation to get around those barriers can commensurately be reduced.

Barrier-free workplaces will not be achieved by 2025 where employers continue to design and operate their workplaces on an implicit assumption that their employees have no disabilities, thereby leaving it to an employee with a disability to come forward with individualized workplace accommodation requests, to counteract the consequences of that problematic approach.

As the proposed employment accessibility Standard goes into effect, employers, and especially large employers, should examine their workplaces to identify existing barriers to workplace accessibility, including barriers to the delivery of effective recurring accommodation needs, so that they can plan for addressing these over time. As a general matter, as an employer comes up with major new plans for the workplace, it should take steps to make sure these new initiatives don't create new barriers against employees with disabilities, and that where feasible, they reduce or eliminate existing workplace barriers. It would be very helpful, at least for larger private sector employers as well as all public sector employers, to review their workplace and employment systems to ascertain what barriers now exist.

There are several examples of barriers that easily illustrate how easily and effectively an employer can make progress in this area. For example:

When an employer designs or re-organizes office workspace, it can plan to do so in a way that ensures that the office workspace is maximally accessible to people with disabilities. This can include, for example, designing aisles, seating areas, and workstations with the flexibility that enables ready accommodation. If these steps are taken when an office is being reorganized, or a new office is being set up, accessibility can be built into the design, usually at very little cost. If an office has an existing workplace it is not slated for a major renovation, it is possible for an employer to identify readily achievable measures that will improve accessibility in the short run.

Such measures should be addressed in the Employment Accessibility Standard, and should not be deferred to the Built Environment Accessibility Standard. We understand that the first Built Environment Accessibility Standard will only address new building construction and renovations, not existing structures that are not slated for renovation. We have no word that the Built Environment Accessibility Standard will cover layout in offices, e.g. aisle widths between desks.

A second example of a readily-preventable workplace barrier not addressed in the proposed Employment Accessibility Standard can arise when an employer holds an off-site event for some or all employees. (e.g. a staff meeting or retreat at another location, rented for that event). Especially when the employer is located in a major urban setting like Toronto, Ottawa or London, it usually has many options that are available for rent for venues to hold such events. To hold one in a venue that is disability-accessible doesn't require the employer to retrofit any of its existing properties. It only requires the employer to choose a property from among the many available to rent, which is accessible. This provides two benefits. For the employees, it ensures accessibility to all. For the longer term, it will provide a financial incentive to hotels and other venues, rented for such events, to make sure their facilities are fully accessible, in order to broaden the market for their properties.

A third example of workplace barriers concerns the office furniture and equipment that is purchased for use by employees. It is not necessary for every last piece of inaccessible furniture and office equipment now in use in employers' workplaces to be scrapped, and for them to be all replaced with furniture and equipment that is fully

accessible. There are many readily-achievable steps that can be taken, that fall far short of this, and that will make substantial progress. This can include:

- a) Wherever new office furniture or equipment is acquired in future, where possible, obtaining accessible items.
- b) Identifying existing barriers in existing office furniture and equipment, and identifying priorities for redressing these over time e.g. via attrition;
- c) Arranging an employer's existing office furniture and equipment in a way that makes it easiest to provide accessible workstations for an employee with a disability, pending replacement of existing furniture and equipment.

It is not sufficient to leave this matter to be dressed in the Information and Communication Accessibility Standard. It is not yet clear what the final Information and Communication Accessibility Standard will cover. However, it is clear that that Standard will largely address information technology that is used by the general public. It may not necessarily also include all the information technology that will be used in any workplace.

For example, it is important that workplace intranets ensure that information posted on them, to be used by employees, is provided in a format that is accessible for people with disabilities. It is not yet clear whether the Information and Communication Accessibility Standard will cover all workplace intranets, or whether it will simply cover accessibility of information on public Internet sites.

A fourth category of recurring workplace barriers concerns terms of employment, such as hours of work, and location of work. For persons with some kinds of disabilities, flexibility in working conditions are required, e.g. to enable them to attend regular medical treatments, or to address limits on their ability to work for extended consecutive hours. The option of flexible work arrangements can often assist, while maintaining and increasing productivity.

In all these examples, corrective actions are beneficial not only for employees and job applicants with disabilities, but also for existing employees who now have no disability, but who may get a disability later. As well, these measures will often assist in the accommodation of customers with disabilities. That too can increase a business's profitability. A law firm whose office aisles are too narrow for a wheelchair to navigate impedes not only lawyers and office staff with disabilities, but also prospective clients with disabilities.

The final proposed Employment Accessibility Standard took some modest steps to try to address this, i.e. by referring to barrier identification, removal and prevention in connection with its more general provisions. However, it does not specifically require employers to take focused steps to review their workplace to identify and plan to remove and prevent recurring workplace barriers.

We therefore recommend that:

#10. The Standard be amended to include specific mandatory requirements for identification, removal and prevention of recurring workplace barriers over time, apart from fulfilling individual employee accommodation requests, e.g. barriers in office workspace, office equipment and technology and terms and conditions of work.

2. Building Barrier Removal and Prevention into Collective Bargaining

Normally it is the employer who has the duty to accommodate, since the employer manages the workplace. However, if the terms of a collective agreement impede the effective accommodation of an employee with a disability, there are circumstances in a unionized workplace when the union must work together with the employer to ensure that the employee is effectively accommodated.

Human rights cases make it clear that an employer cannot contract out of its duty to accommodate people with disabilities. They also make it clear that there are circumstances where a collective agreement between a union and employer can impede the effective accommodation of an employee in the workplace. This can result in a duty on the part of the union, and not just the employer, to help make sure that the employee is effectively accommodated.

The proposed Employment Accessibility Standard does not specifically address the situation. It should be expanded to do so. It is not necessary or desirable for the Employment Accessibility Standard to set out in detail the duties of trade unions and employers when these situations arise. However it would be helpful to expand the proposed Employment Accessibility Standard to put in place a process, consistent with the traditional collective bargaining relationship of employers and unions, to help make sure that when collective agreements are bargained in the future, they are designed not to impede the achievement of barrier free workplaces.

A useful way that this could be achieved would occur when a union and employer sit down to bargain a new collective agreement, either because the old one has expired, or because this is the first contract to be negotiated. It would be helpful if during that collective bargaining process, the employer and union were to review any existing collective agreement, to identify if any barriers exist that would impede effective accommodation of employees or job applicants with disabilities, and if found, to negotiate provisions that address these barriers. It would also be helpful if during the collective bargaining process, the employer and union directed their attention to ensuring that no new barriers are created in the collective agreement that they eventually negotiate.

Similarly, in those very limited situations where a collective bargaining agreement is imposed through an arbitration process, rather than through negotiations, the arbitrator should be under a duty, in devising the collective agreement, to ensure that the contract doesn't perpetuate any old barriers, or create any new barriers against employees or job applicants with disabilities. As part of that process, the arbitrator could invite the union and employer to make submissions on the identification of existing barriers in the expired collective agreement, or the existence of possible new barriers in proposed terms which one or other party has put on the table, and on strategies for removing and preventing such barriers.

It is not unusual for unions and employers, involved in the collective bargaining process, to come up with contractual terms to address such issues. For example, several collective agreements now include "human rights" clauses. These repeat the guarantees of employment equality set out in the Human Rights Code. Under these clauses, unions can bring grievances against the employer under the collective agreement if the employer refuses to effectively accommodate an employee with a disability. Moreover, some collective agreements include terms that regulate which employees can work on which jobs at which times. Of these, some include exceptions to enable employees with disabilities to be able to move to job positions that they can do, even if they weren't otherwise entitled to make that job move under the collective agreement. Unions have experience with this need, especially in workplaces with significant numbers of workplace injuries.

Such additions to the proposed Employment Accessibility Standard would build on the existing relationship between the union and employer, and the traditional collective bargaining process. It would implement the duties that the employer and union already have under human rights law. These can be fortified if the employer and union had added obligation to consult with employees with disabilities to help identify possible barriers in the workplace that need to be addressed.

We do not propose reducing in any way the employer's primary obligation for achieving a fully accessible workplace, and delivering needed workplace accommodations. We also do not propose that the process of providing workplace accommodation should be subject to collective bargaining, or that it become a bargaining chip during disputes between management and a union over other issues. An employer cannot negotiate away its duty to accommodate, nor contractually tie its hands in a way that impedes the delivery of effective workplace accommodation where needed. We also don't propose any alteration in the balance between unions and employers in the workplace. We simply propose that the union and employer direct their minds, while undertaking collective bargaining, towards ensuring that the result of the collective bargaining process promotes a barrier free workplace, and doesn't impede effective workplace accommodation of employees and job applicants with disabilities. We do not in any way propose to reduce the important duties of management and unions regarding workplace accommodation of employees with disabilities during the life of an existing collective agreement.

We therefore recommend that:

#11. The Standard be expanded to address the process of removing and preventing barriers to effective workplace accommodation and accessibility in the collective bargaining process and in collective agreements, which could:

- a) focus an employer and union, involved in the process of bargaining a collective agreement, on identifying and removing existing barriers in the collective agreement, and preventing the creation of new barriers;
- b) require an arbitrator, undertaking binding arbitration of the collective agreement, to address identification removal of existing barriers, and prevention of new barriers in the collective agreement, including inviting submissions from the union and employer on this topic during the arbitration process;
- c) engage the employer and union in getting input from employees with disabilities on workplace barriers that may arise from the collective agreement.

3. Planning For The Cost Of Workplace Accommodations

Some who have responded to the proposals for accessibility Standards in the areas of public transit, customer service and information and communication have approached these on the incorrect assumption that providing accessibility is some new obligation that the AODA created. Some have demanded that the Government pay for the cost of providing that accessibility before anyone outside the government should be required to do anything to remove or prevent barriers impeding persons with disabilities.

These are not new cost burdens that the AODA has created in 2005. Since 1982, the Human Rights Code has required that barriers against persons with disabilities in accessing employment, goods, services and facilities be identified, removed and prevented.

Some workplace accommodations involve some up-front costs. Because they enable an employee with a disability to become more productive, these expenditures usually pay themselves off, typically with added benefits for the employer.

An organization's ability to deliver timely, effective accommodation can be increased if it has in place a system to smooth the process of paying for these accommodations. Larger organizations, such as government departments, develop and operate under detailed annual budgets. If these don't include specific allocations for workplace disability accommodations, there is the risk that the cost of accommodation will be treated as something "we don't have budget for."

The duty to accommodate is imposed on an employer as a corporate entity. It is no defence under human rights legislation to simply say that an organization has not budgeted for accommodation. Moreover, an organization's duty to accommodate is not limited to undue hardship to a specific department's budget. It is limited by undue hardship to the organization as a whole.

In the 1980s, the Ontario Government commendably put in place a very helpful system to help each Government department and agency cover the cost of individual workplace accommodations. It established a central fund, called the Employment Accommodation Fund, for this purpose. An individual government office could apply to that fund to reimburse it for costs of specific disability workplace accommodations. Each individual government office still had the ultimate responsibility to provide needed workplace accommodations for employees with disabilities who needed them. An individual government office cannot refuse to provide a needed workplace accommodation, on the grounds that the employment accommodation fund would not reimburse the cost. Thus, the employment accommodation fund did not have veto over whether the worker would be accommodated. However, individual managers knew that they could have recourse to the employment accommodation fund. The Ontarians With Disabilities Act 2001 was enacted, which embedded this fund in legislation. [See our recommendations regarding this fund, below]. No legislation had been needed to establish or operate the fund for over a decade before then.

There need be no one-size-fits-all solution to addressing this issue. However, it would be helpful if the Employment Accessibility Standard established some basic requirements to achieve the objective of ensuring that an organization has in place an effective means for flowing funds to cover workplace accommodations that the Ontario Human Rights Code requires. By this, the Standard would not set the amount of money an organization should spend on workplace accommodation. That is a matter already governed by the Human Rights Code.

We would recommend that very large organizations such as large municipalities, hospitals, universities and school boards, be required to establish something comparable to the Ontario Government's employment accommodation fund. For other larger organizations, it may be sufficient for the employment accessibility Standard at this point to simply require that they put something in place to address this need, leaving them flexibility on how it will operate. If, after the Employment Accessibility Standard has been in operation for five years, it turns out that those minimum requirements are insufficient, it would then be open to the employment Standards Development Committee to revisit this issue, and consider expanding the Employment Accessibility Standard to include more detailed requirements. We don't propose that any measures be directed in this regard at small businesses at this time.

In proposing this, we emphasize that we are not suggesting that major bureaucratic burdens be imposed on organizations, requiring a lot of paperwork or the hiring of additional staff. We do not want funds diverted from the needed objective of providing actual workplace accommodations to employees with disabilities who need them, towards instead funding some new, excessive bureaucratic burden. Also, to help make this easily and effectively enforceable, it should be easy to establish whether an organization is doing what the Employment Accessibility Standard would require.

In proposing this, we proceed on the basis that the human rights code already requires employers to spend a certain amount of money on workplace accommodations i.e. where needed, up to the point of undue hardship to the organization. We are not here proposing to raise the bar. We're simply proposing the establishment of a means within the organization to help best ensure that that money is available and accessed on a timely basis. We do not propose an organization set a ceiling in advance of how much it will spend on workplace accommodation. Those expenditures will have to be decided on a case-by-case basis.

We therefore recommend that:

#12. the Standard be amended to require that larger private sector organizations, and all public sector organizations, establish, make public, and inform employees and job applicants about a process for making funds available within the organization, when needed for workplace accommodations, including:

- a) In the case of public sector organizations, establishing a central fund to cover the cost of accommodations, so long as that Fund is not treated a ceiling of what the organization may expend on needed workplace accommodation;
- b) Large private sector organizations would either establish such a Fund or a comparable process.
- c) If an employee-requested workplace accommodation isn't provided by the organization, on account of concerns over the cost or for any other reason, the organization's chief executive officer will be informed of this decision and the reason for it.

We further address this in connection with the Ontario Public Service in the next section of this brief.

4. Additional Provisions Addressing The Ontario Government And Ontario Public Service

The proposed Employment Accessibility Standard needs to be expanded to include additional provisions that specifically address the Ontario Government as an employer. These should aim at having the Ontario Public Service become a barrier-free workplaces for employees with disabilities.

The Ontario Government is recognized as Ontario's largest employer. Because of the many workplace barriers in the private sector, many persons with disabilities have historically turned to the Ontario Government as a place to find a first job, and to develop a positive work record that they can later present to prospective private sector employers. Its distinctive role as an employer should be addressed in the Standard.

The predecessor law to the AODA, the Ontarians with Disabilities Act 2001, includes specific provisions bearing directly or indirectly on removing and preventing employment barriers in the Ontario Public Service. According to the AODA, the Ontarians with Disabilities Act 2001 will eventually be repealed. It is the AODA Alliance's position that the Ontarians with Disabilities Act 2001 should not be repealed until and unless all of its provisions are included in accessibility Standards enacted under the AODA.

To that end, the Employment Accessibility Standard should be expanded to incorporate all of the provisions in the Ontarians with Disabilities Act 2001 addressed to the Ontario Public Service as a workplace. Those provisions include requirements to:

- a) have regard to accessibility when the Government purchases goods or services through the procurement process for use by the Government, its employees or the public; (ODA 2001 s. 5);
- b) requiring the Ontario Government to take certain steps to accommodate the disability-related employment needs of Ontario public servants with disabilities including maintaining a central Employment Accommodation Fund for funding the workplace accommodations of Ontario public servants with disabilities (ODA 2001 s. 8);
- c) requiring certain steps for achieving accessibility of Ontario Government-funded infra-structure or capital projects (ODA 2001 s. 9).

When the Harris Government introduced the Ontarians with Disabilities Act 2001, many from the disability community, with the AODA Alliance's predecessor (the ODA Committee) in the lead, criticized that legislation as too weak. At the request of voices from the disability community, the Liberal Party, while in opposition, proposed several amendments to the proposed Ontarians with Disabilities Act 2001. The Harris Government voted almost all of these amendments down.

In the 2003 provincial election, Liberal leader Dalton McGuinty promised in writing that the AODA his Government would pass, and regulations made under it, would, at a minimum, implement the amendments to the Ontarians with Disabilities Act 2001 which the Liberal Party proposed while in opposition, and which were defeated by the Harris Government. Mr. McGuinty stated in his April 7, 2003 written election pledge to the Ontarians with Disabilities Act Committee regarding the Disabilities Act his Government would pass:

"The legislation and regulations will include timelines, Standards and a mechanism for effective enforcement, and, at a minimum, will reflect the substance of amendments to the Conservative bill offered by the Liberal party in the fall of 2001."

We propose that wherever they fit, the Liberal Party's proposed amendments to the Ontarians with Disabilities Act 2001, where relevant, should be included in the Employment Accessibility Standard.

- a) Perpetuating and Strengthening the Ontario Public Service Employment Accommodation Fund

Section 8 of the Ontarians with Disabilities Act 2001 provides in material part:

"Reimbursement of eligible expenses

(5) The Management Board Secretariat shall, out of the money appropriated annually to it for this purpose, authorize reimbursement to a ministry for eligible expenses that the ministry has incurred in fulfilling the ministry's obligations under subsections (1) and (2).

Amount of reimbursement

(6) The reimbursement shall be in the amount that the Management Board Secretariat determines and be made in accordance with the guidelines established by the Management Board Secretariat."

As described earlier, the Ontario Government's Employment Accommodation Fund is an important measure that helps reduce impediments to effective workplace accommodation. Operating since the mid 1980s, its operations have ranged from a highly-effective, non-bureaucratic and supportive initiative in the early 1990s to a more bureaucratic, less supportive initiative nearer the end of the 1990s.

It would be helpful for the Government to make available to the Employment Standards Development Committee and the public information on the Funds' usage, including what is annual budget has been, whether it is annually

asked to provide funding in excess of its budget, and if so, what the Fund has done to meet the needs of those employees whose requests don't fall within its budget.

It is important for the Fund to be available to all those who work for the Ontario Government. As described in the Ontarians with Disabilities Act 2001 section 8(5), the Fund only applies to those working in ministries. Many people who work for the Government do not work in a specific ministry. The Employment Accessibility Standard should make sure that all those who work for the Government have access to the Fund.

It is also important for a system to be in place to ensure that if the Fund's annual appropriation is insufficient, it will be replenished, rather than worthy applicants being turned away because others used up the Fund.

The Liberal Party's 2001 proposed amendments to the Ontarians with Disabilities Act 2001 concerning the Employment Accommodation Fund would have replaced the preceding provisions of the Ontarians with Disabilities Act 2001 with the following (the "barrier-free Directorate referred to in these amendments is the same as the Ontario Government's Accessibility Directorate):

"Reimbursement of eligible expenses

(11) The Management Board Secretariat shall, out of the money appropriated annually to it for this purpose, authorize prompt reimbursement to a ministry for eligible expenses that the ministry has incurred in fulfilling the ministry's obligations under this section.

Amount of appropriation

(12) The Government of Ontario shall take all steps within its control to ensure that the amount appropriated annually for the purpose of subsection (11) is not less than the amount appropriated for the purpose in the fiscal year in which this Act comes into force.

Amount of reimbursement

(13) The reimbursement shall be sufficient to meet the full range of the Government of Ontario's obligations to accommodate under this section, shall be in the amount that the Management Board Secretariat determines and be made in accordance with the Standards established by the Management Board Secretariat, in consultation conducted through the Barrier-Free Directorate of Ontario with employees with disabilities of the Government.

Same

(14) The Standards shall require reimbursement in an amount that is sufficient to cover the obligations of the Government of Ontario with respect to all persons with disabilities, whatever their type.

Request for reimbursement

(15) Within 14 days of receiving a request from a ministry for reimbursement under subsection (11), the Management Board Secretariat shall make a decision on the request and give notice in writing of the decision to the ministry, stating the detailed reasons for not granting the request in full, if that is the case.

Appeal

(16) The ministry whose request is refused in whole or in part may appeal the decision to the Barrier-Free Directorate of Ontario by filing a notice in writing with the Directorate within the time period specified in the regulations and the directorate shall hold a hearing on the appeal and render any decision that the Management Board Secretariat could have rendered, with reasons to be given in writing."

We therefore recommend that:

#13. The Standard be expanded to

a) enshrine the Employment Accommodation Fund for the Ontario Public Service as set out in s. 8 of the Ontarians with Disabilities Act 2001, and as enhanced by amendments to that provision which the Liberal Party proposed in 2001;

b) Access to the Employment Accommodation Fund be made available to any employee of the Ontario Government and any public official paid by the Ontario Government whether or not they are employed by a specific Ministry.

b) Ontario Government's Implementation of its Duty to Accommodate Ontario Public Servants with Disabilities

The Ontarians with Disabilities Act 2001 includes specific provisions implementing the Ontario Government's duty to accommodate Ontario public servants with disabilities, beyond those dealing specifically with the Employment Accommodation fund. Section 8 of the Ontarians with Disabilities Act 2001 provides in material part:

"8. (1) The Government of Ontario shall accommodate the accessibility needs of its employees in accordance with the Human Rights Code to the extent that the needs relate to their employment.

Applicants for employment

(2) The Government of Ontario shall accommodate the accessibility needs of persons with disabilities who apply for a position as a government employee and whom the Government invites to participate in the selection process for employment to the extent that the needs relate to the selection process.

Training

(3) The Government of Ontario shall ensure that its employees who have managerial or supervisory functions receive training in fulfilling the Government's obligations under this section.

Information

(4) The Government of Ontario shall inform its employees of the rights and obligations of the Government and its employees under this section. "

While in opposition, the Liberal Party proposed amendments to strengthen these provisions of the Ontarians with Disabilities Act 2001. These would have replaced the preceding provisions with the following:

"Government employees

8. (1) The Government of Ontario shall create and maintain a barrier-free employment environment for its employees and persons who apply for a position as a government employee.

Barrier-free employment environment

(2) The barrier-free employment environment shall include all aspects of employment, including recruitment, hiring, training, promotion and employment-related interaction.

Responsibility in Ministries

(3) The Minister and Deputy Minister of each ministry are responsible for ensuring the Government of Ontario meets the obligation described in subsection (1) within their ministry and for ensuring that all employees responsible for implementing the obligation in their ministry receive ongoing training in fulfilling these obligations.

Time for training

(4) The employees responsible for implementing the obligations provided for in this section in their ministry shall receive the initial training under subsection (3),

- (a) within one year after this section comes into force, if they are deputy ministers or assistant deputy ministers;
- (b) within two years after this section comes into force, if they are not deputy ministers or assistant deputy ministers.

Information

- (5) The Government of Ontario shall inform its employees of,
 - (a) the rights of persons with disabilities and the obligations of the Government under this section;
 - (b) the steps that the Government is taking to meet its obligations under this section; and
 - (c) the process for employees to obtain the accommodation in employment that the Government is required to provide under this section and under the Ontario Human Rights Code.

Accommodation

- (6) The Government of Ontario shall accommodate the accessibility needs of its employees and applicants for positions of its employees in a timely manner and in accordance with the Human Rights Code and shall designate a person or persons in each ministry who is or are responsible for ensuring that the ministry provides the accommodation upon the request of an applicant.

No disclosure

- (7) Each designated person shall not disclose to any person any information that he or she receives about a person's disability except with the consent of the persons with the disability or for audit purposes.

Refusal to accommodate

- (8) If the Government of Ontario decides not to accommodate a request for accommodation, the Deputy Minister of the ministry involved shall approve the decision in writing and the designated person for the ministry shall advise the applicant in writing of the reasons for the decision.

Appeal

- (9) The applicant may appeal the decision to the Barrier-Free Directorate of Ontario by filing a notice in writing with the Directorate within the time period specified in the regulations.

Decision of Directorate

- (10) The Directorate shall consider the appeal in accordance with the duty of fairness and shall render a decision with written reasons within 30 days of receiving the notice of appeal.”

It would be helpful for the Ontario Government to make available to members of the Employment Standards Development Committee and the public information on when the training, required under the Ontarians with Disabilities Act 2001, was delivered, how it was delivered, and whether it has been repeated since then. Given the regular turnover of employees in any workplace, there is a need for such training to be periodically repeated.

If the training was delivered via on-line or e-learning programs, that model is woefully inadequate for such a large and diverse organization as the Ontario Public Service. Those with experience doing public education on disability accessibility and accommodation know that face-to-face learning is absolutely essential to have any hope of being effective in such an organization.

We therefore recommend that:

#14. The Standard be expanded to

- a) incorporate section 8 of the Ontarians with Disabilities Act 2001 governing accommodation of Ontario public servants with disabilities, as enhanced by the Liberal Party's amendments to those provisions which it proposed in 2001;
 - b) require that training of management officials in the Ontario Public Service be face-to-face, not on-line training, and
 - c) require periodic training of co-workers in the Ontario Public Service on the duty to accommodate employees with disabilities, whether or not they have management responsibilities.
- c) Government Procurement of Goods and Services

The Ontario Government is a huge purchaser of goods and services that are used in the workplace. To achieve a fully barrier-free workplace, it should only purchase goods and services that are barrier-free for employees with disabilities, absent some very compelling reason for not doing so. The proposed Employment Accessibility Standard doesn't now require the Ontario Government or any other employer to do this.

The Ontarians with Disabilities Act 2001 goes a limited distance in this direction. It provides:
 "Government goods and services

5. In deciding to purchase goods or services through the procurement process for the use of itself, its employees or the public, the Government of Ontario shall have regard to the accessibility for persons with disabilities to the goods or services."

And

"Government-funded capital programs

9. (1) If a project relates to an existing or proposed building, structure or premises for which the Building Code Act, 1992 and the regulations made under it establish a level of accessibility for persons with disabilities, the project shall meet or exceed that level in order to be eligible to receive funding under a government-funded capital program.

Same, other projects

(2) If a project is not a project described in subsection (1) or if the projects in a class of projects are not projects described in that subsection, the Government of Ontario may include requirements to provide accessibility for persons with disabilities as part of the eligibility criteria for the project or the class of projects, as the case may be, to receive funding under a government-funded capital program."

It is insufficient to simply require the Government to consider accessibility when purchasing goods and services. The Government could comply with this provision, by simply thinking about accessibility, but not doing anything about it. This provision has been insufficient to ensure that goods and services purchased for use in or by the Ontario Public Service are fully accessible to and usable by employees with disabilities.

When in Opposition, the Liberal Party proposed strengthening these provisions of the Ontarians with Disabilities Act 2001. Specifically it proposed replacing ss. 5 and 9 with the following:

"Government goods and services

5. (1) The Government of Ontario shall not purchase goods or services for the use of itself, its employees or the public that create or maintain barriers for persons with disabilities or that contravene the Standards specified in the regulations made under subsection (3) unless it is not possible to do so because the goods or services are not available in a form that complies with this subsection and otherwise cannot reasonably be obtained in such form if so requested or ordered.

If goods or services not available

(2) If the goods or services cannot be obtained in a form that complies with subsection (1), the Government of Ontario shall ensure that the benefits of the goods and services are available to persons with disabilities at no extra cost or effort to persons with disabilities.

Standards

(3) In consultation with persons with disabilities and others including through the Barrier-Free Directorate of Ontario, the Lieutenant Governor may make regulations specifying the Standards mentioned in subsection (1) for goods and services which promote the purposes of this Act.”

And

“Government-funded capital programs

9. (1) Capital funding for projects under a government-funded capital program shall be made available only if there is a barrier-free plan incorporated into the project that meets the Standards specified in the regulations made under subsection (2).

Regulations

(2) Within six months after subsection (1) comes into force, the Lieutenant Governor in Council shall make regulations specifying the Standards mentioned in that subsection, which shall include a barrier-free plan for the benefit of all persons with disabilities.”

It is important that there be an effective process to monitor the Ontario Government’s compliance with these requirements, and to enforce non-compliance. Now, the Ontarians with Disabilities Act 2001 has no process for enforcing them. Moreover, it is very difficult if not practically impossible for the public to know if the Government is complying with these requirements. We have tried raising with the Ontario Government the need for stronger measures to ensure that public funds are not used to create, exacerbate or perpetuate barriers through the Government’s procurement and infrastructure spending processes. To date, this has not yielded any major policy changes. See e.g.: <http://www.aodaalliance.org/strong-effective-aoda/07082009.asp> and: <http://www.aodaalliance.org/strong-effective-aoda/12162009.asp>

We therefore recommend that:

#15. The Standard be expanded to incorporate the requirements of ss. 5 and 9 of the Ontarians with Disabilities Act 2001 as enhanced by the amendments to those provisions which the Liberal Party proposed in 2001.

APPENDIX 1 - LIST OF RECOMMENDATIONS IN THIS BRIEF

#1. Section 1 of the Standard be amended to include a provision that states that the purpose of the Standard is to ensure that workplaces in Ontario are barrier free and that people with disabilities have equal access to employment and can fully participate in employment on or before 2025.

#2 Section 2 be amended to provide that an organization's classification will be assessed by regard to the number of employees in that organization and any related, jointly operated or co-managed organizations.

#3 Section 3.2 be amended to

a) require organizations to make public their accessible employment policy statements, e.g. via posting them on the web or in the workplace, and

b) require larger private sector organizations and all public sector organizations to electronically file their accessible employment policy statement with the Ontario Government.

#4. Section 3.3 be amended to also require training of all employees on:

a) The duty under the Human Rights Code to identify, remove, and prevent workplace barriers, and the duty to accommodate employees and job applicants with disabilities.

b) How employees and job applicants can seek and receive workplace accommodation.

c) The duties of co-workers to facilitate workplace accommodation

d) the duty of all to provide a welcoming environment in which to seek and receive workplace accommodation, and

e) The benefits to employees and customers of workplace accommodation.

#5. Section 4.3 be amended to require the Ontario government to set up a one-click network to which employers can send job postings, which the Government would then distribute to organizations that serve persons with disabilities.

#6. Section 5.1's provisions regarding workplace accommodation plans be amended to ensure that:

a) the process of developing and providing workplace accommodation is flexible and non-bureaucratic.

b) It is clear to whom an employee makes an accommodation request;

c) there is a speedy process within the organization for resolving any dispute or disagreement over an accommodation request;

d) A public sector organization, and possibly a very large private sector organization, should designate an existing employee within their organization as the disability accessibility and accommodation coordinator to oversee workplace accommodation issues;

e) If an employer declines to provide workplace accommodation to an employee or job applicant, the employer shall give the employee or job applicant its reasons for not providing any accommodation, or if further accommodation is requested but declined, the further accommodation.

#7. Section 5.5 be amended to specify key minimum requirements of any return to work policy, aimed at maximizing the opportunity for return to work. These minimum requirements can vary depending on the class of organization, with less extensive requirements for smaller organizations.

#8. Section 5.5 be amended to specify minimum requirements for employees with disabilities involved in any redeployment process, which:

a) Take into account and effectively address any accommodation needs of employees with disabilities being redeployed, and

b) Protect, where feasible, employees with disabilities from being bumped from their job to another job if this will confront them with less accessibility or more workplace barriers.

#9. All time lines in the standard be significantly reduced. There should be a compelling reason why any requirement does not go into effect promptly, especially for large private sector organizations and any public sector organizations. Where there is any delay in a requirement going into effect, interim benchmarks should be required so that employers don't believe they need do nothing for employees and job applicants with disabilities in the interim.

#10. The Standard be amended to include specific mandatory requirements for identification, removal and prevention of recurring workplace barriers over time, apart from fulfilling individual employee accommodation requests, e.g. barriers in office workspace, office equipment and technology and terms and conditions of work.

#11. The Standard be expanded to address the process of removing and preventing barriers to effective workplace accommodation and accessibility in the collective bargaining process and in collective agreements, which could:

a) focus an employer and union, involved in the process of bargaining a collective agreement, on identifying and removing existing barriers in the collective agreement, and preventing the creation of new barriers;

b) require an arbitrator, undertaking binding arbitration of the collective agreement, to address identification removal of existing barriers, and prevention of new barriers in the collective agreement, including inviting submissions from the union and employer on this topic during the arbitration process;

c) engage the employer and union in getting input from employees with disabilities on workplace barriers that may arise from the collective agreement.

#12. the Standard be amended to require that larger private sector organizations, and all public sector organizations, establish, make public, and inform employees and job applicants about a process for making funds available within the organization, when needed for workplace accommodations, including:

a) In the case of public sector organizations, establishing a central fund to cover the cost of accommodations, so long as that Fund is not treated a ceiling of what the organization may expend on needed workplace accommodation;

b) Large private sector organizations would either establish such a Fund or a comparable process.

c) If an employee-requested workplace accommodation isn't provided by the organization, on account of concerns over the cost or for any other reason, the organization's chief executive officer will be informed of this decision and the reason for it.

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a) enshrine the Employment Accommodation Fund for the Ontario Public Service as set out in s. 8 of the Ontarians with Disabilities Act 2001, and as enhanced by amendments to that provision which the Liberal Party proposed in 2001;

b) Access to the Employment Accommodation Fund be made available to any employee of the Ontario Government and any public official paid by the Ontario Government whether or not they are employed by a specific Ministry.

#14. The Standard be expanded to

a) incorporate section 8 of the Ontarians with Disabilities Act 2001 governing accommodation of Ontario public servants with disabilities, as enhanced by the Liberal Party's amendments to those provisions which it proposed in 2001;

b) require that training of management officials in the Ontario Public Service be face-to-face, not on-line training, and

c) require periodic training of co-workers in the Ontario Public Service on the duty to accommodate employees with disabilities, whether or not they have management responsibilities.

#15. The Standard be expanded to incorporate the requirements of ss. 5 and 9 of the Ontarians with Disabilities Act 2001 as enhanced by the amendments to those provisions which the Liberal Party proposed in 2001.