

Frequently Asked Questions:

THE ACCESSIBILITY STANDARD FOR EMPLOYMENT

What is the Accessibility Standard for Employment?

The Accessibility Standard for Employment is the second regulation under The Accessibility for Manitobans Act. Established on May 1, 2019, its aim is to identify, remove and prevent barriers that affect current and potential members of Manitoba's labour force.

Does my organization or business need to comply with the Accessibility Standard for Employment?

If your business or non-profit organization has one or more employees in Manitoba, you have to comply with the Accessibility Standard for Employment.

- **Businesses** include shops, restaurants and hotels, and legal, healthcare and other professional services.
- **Non-profit organizations** include charities, unions, places of worship, community organizations and member associations.

To learn how you can comply with the law, please see the [Employers' Handbook on the Accessibility Standard for Employment](#).

What are the deadlines for employers to implement the reasonable accommodation requirements?

As of May 1, 2020, **all public, private and non-profit sector employers must:**

- Have plans in place to keep employees with disabilities safe during a workplace emergency.
- Seek permission from employees who require assistance during an emergency to share that information with other individuals in the organization who have agreed to provide support.

The other requirements have staggered deadlines:

- **The Manitoba government** has demonstrated leadership by complying within one year, by May 2020.
- **Large Public sector organizations** had a May 2021 deadline. These include Crown corporations, regional health authorities, school divisions, colleges, universities, Manitoba's 10 largest municipalities and government agencies.
- **Private sector, non-profit organizations and small municipalities** have a deadline of May 2022. These include Manitoba businesses and organizations with one or more employees, such as shops, restaurants and professional services, as well as non-profit organizations. Non-profits include charities, places of worship, community organizations and membership associations.

What are the requirements of the Accessibility Standard for Employment?

The Accessibility Standard for Employment calls on all employers to have policies and practices to provide reasonable accommodations for job applicants and employees. Requirements include:

- offering reasonable accommodations when recruiting new employees
- informing job applicants about workplace accommodation policies and practices when making an offer of employment
- considering workplace barriers that may affect employees as part of performance management or career development
- developing and implementing individualized accommodation plans at an employee's request
- sharing information about policies and practices related to employment accessibility with employees, and ensuring this information is available in accessible formats or with communication supports, upon request
- implementing a return-to-work policy for employees who have been absent because of a disability, including a process to introduce reasonable workplace accommodations if these are required
- keeping employees safe during an emergency
- training human resources, management and supervisors about accessible employment and related legislation

Who benefits from the Accessibility Standard for Employment?

Employers and people with disabilities will benefit.

- People with disabilities are an underutilized pool of workers. In 2017, Statistics Canada estimated that there were nearly 645,000 job-ready Canadians with a disability.
- Employees with disabilities can request what they need to do their work and employers have the information they need to assist them.
- Employees with disabilities tend to stay in jobs longer, reducing recruitment and training costs for employers.
- A diverse workforce contributes to innovation and customer loyalty, and it creates workplace sensitivity to diversity in the marketplace.

Does the Accessibility Standard for Employment force affected organizations to hire people with disabilities?

No, the Standard does not take away an employer's right to hire the candidate who is most suited and qualified for the position. Rather, the Standard intends to remove barriers that may make it harder for people with disabilities to be successful when applying for a job.

How can employers assist employees with disabilities to stay safe during a workplace emergency?

The Accessibility Standard for Employment requires employers to offer:

- **Workplace Emergency Response Information**
Create emergency response information to help employees with disabilities stay safe during emergencies.
- **Workplace Emergency Assistance**
Ask employees who require assistance during an emergency for permission to share information with individuals who agree to help.

A good first step is to reach out to all employees and then privately follow up with individuals who need assistance. At that time, you can discuss their needs and develop an [individualized emergency plan](#) together.

Some examples are:

- An accountant who uses a power wheelchair works on the sixth floor of an office building. Since the building's elevators automatically stop working in a fire, his employer consults with the local fire department and identifies a safe location where he can wait for assistance.
- An employee with low vision works in the call centre of a large insurance company. She and her employer identify coworkers (one primary and another as backup if the first is away) to guide the way to the exits during an evacuation. The employee agrees to the assistance and the emergency plan is shared with the two coworkers who agree to assist.

Does our organization's emergency plan also need to consider non-employees, such as customers, clients, volunteers or students with disabilities?

The requirements of the Accessibility Standard for Employment apply only to paid employees of an organization.

The Human Rights Code (Manitoba) has a broader application and obligates service providers to ensure they are providing services in a non-discriminatory manner. This means that if an emergency occurs, the organization should be prepared to respond to the diverse needs of the people accessing their services. For more information, please visit the [Manitoba Human Rights Commission](#).

What is reasonable accommodation?

The Accessibility Standard for Employment requires employers to provide [reasonable accommodation](#) for people with disabilities. Employers and employees share responsibility to try to find the right solutions that address barriers in the workplace. Failing to provide reasonable accommodation is a form of discrimination.

Most accommodations offer a change to how things are usually done, often by making small adjustments that cost little or nothing. Reasonable accommodation levels the playing field for people with disabilities, improves productivity and makes workplaces healthier for everyone. For example, a retail cashier tells her employer that since her knee replacement surgery, she has difficulty standing for long periods. The employer accommodates her needs by enabling her to sit while performing her duties.

A workplace accommodation is reasonable if it is required for an employee to carry out their work or access benefits available to employees. It is reasonable if it does not result in undue hardship on the employer, such as safety risks to other staff or proof of significant costs.

What if a business or organization cannot afford to respond to a request for an accommodation?

Manitoba's Human Rights Code and the Accessibility Standard for Employment do not force employers to do things they simply cannot do. If current or prospective employees request something your business or organization cannot afford, you may wish to explore with them other options that cost less and that you can afford. If you believe the request is unreasonable, you may wish to contact the [Manitoba Human Rights Commission](#) for more information on your obligations under the Code.

Can I ask employees about their disabilities, or request medical information that proves they have a disability?

Employees' health information or a diagnosis is a private matter that they do not need to share with their employer. Discussions about disability accommodation should therefore focus on how the employee's disability might impact their ability to do their job. For example, an employer may ask how the employee's disability might impact their ability to do their job, or about their specific restrictions or needs, and their prognosis for recovery.

The [Manitoba Human Rights Commission](#) advises that the employer is often entitled to some medical information to support accommodation requests. The amount of medical information requested should be in proportion to the significance of the accommodation. For example, employees who request a short absence from work would usually not require as much medical information as employees who require a permanent modification to their position. In some cases, you must obtain the consent of the employee to collect information directly from their health care provider.

Employers may also request an evaluation of an employee by an independent and regulated health professional, or other professional in the area of workplace accommodations for persons with disabilities. The evaluation may help determine whether an accommodation is required, or how best to meet the need. It is the employer's responsibility to pay for the evaluation.

Does the employer have a responsibility to provide a workplace accommodation if the employee does not ask?

If an employer believes an employee may have a disability and would benefit from an accommodation, the [Manitoba Human Rights Commission](#) advises that the employer has a responsibility to discuss this with the individual.

Employees may not always be in a position to identify a need or request accommodations. This may include situations involving mental health disabilities or addictions. In these cases, if an employer has reason to question, or should reasonably have recognized a need for accommodation, the employer may have a duty to ask about whether the employee has a disability-related need requiring accommodation. Inquiries should focus on workplace performance expectations.

Who must receive training on the requirements of the Accessibility Standard for Employment?

Employers must ensure they train staff with the following responsibilities:

- recruiting, selecting or training employees
- supervising, managing or coordinating the work of employees
- promoting, redeploying or terminating employees
- developing and implementing employment policies and practices

What should the training cover?

The training must include:

- how to create accessibility in the workplace
- how to interact with individuals who use an assistive device or require a support person or service animal
- a review of Manitoba's Human Rights Code, The Accessibility for Manitobans Act and the Accessibility Standard for Employment

To learn how to meet basic training requirements, please visit the Manitoba Accessibility Office's learning portal at AMALearningMB.ca.

Which employers must document their employment policies?

Not all employers are required to write down their organization's accessible employment policies and practices. However, many employers find this is the most convenient way to share information with employees, as required by the Accessibility Standard for Employment.

Organizations with 50 or more employees in Manitoba are required to document in writing all of their accessible employment policies and practices, including training content and when training is provided. These employers must also document the policy and process to create [Individualized Accommodation Plans](#).

The documents must be publicly available in accessible formats, upon request.

Does complying with The Accessible Employment Standard Regulation protect my business or organization from human rights complaints?

No. While proactive accessibility measures speak well of a business or organization, they do not rule out the possibility of discrimination as outlined in The Human Rights Code (Manitoba). The Human Rights Code supersedes all other provincial laws and regulations, unless specifically noted.

For more information, contact:

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Legal disclaimer: This information complements the application of the regulations under The Accessibility for Manitobans Act (AMA) and is not legal advice. For certainty, please refer to the AMA and the [Accessible Employment Standard Regulation](#).