

Accessibility for Ontarians with Disabilities Act Alliance
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What an Ontario Education Accessibility Standard Could Include? – A Discussion Paper

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1. Introduction

a) What is This Discussion Paper All About?

In Ontario, students with disabilities still face too many accessibility barriers. These impede them from fully benefitting from and being fully included in Ontario's education system. This contributes to the high unemployment rate facing people with disabilities. To get a good job, it is essential to first get a good education.

The accessibility barriers in Ontario's education system hurt hundreds of thousands of children, youth and young adults in Ontario. There are at least 334,000 students with special education needs in Ontario's publicly-funded schools. That's one out of every six students in those schools. Further swelling that number, a large number of additional students with disabilities study in Ontario colleges or universities, or want to do so.

To assist students with disabilities, for over half a decade, the Accessibility for Ontarians with Disabilities Act Alliance has campaigned to get the Ontario Government to agree to develop and enact an Education Accessibility Standard under the Accessibility for Ontarians with Disabilities Act (AODA). This Discussion Paper offers a preliminary look at what an Education Accessibility Standard can and should include. It discusses what the Education Accessibility Standard should aim to achieve, the educational organizations to which it should apply, the disabilities it should cover, and the accessibility barriers it should address. It ends with some concluding thoughts.

We emphasize in the strongest terms that the Ontario Government need not agree to any of the ideas in this Discussion Paper, before it decides to embark on developing an Education Accessibility Standard. The AODA sets out an inclusive process for the Government to develop an accessibility standard. When it starts on the road towards developing one, the Government makes no commitments in advance on what the accessibility standard will include.

For example, in 2006, the Ontario Government commendably decided to start the process of developing a Transportation Accessibility Standard. By deciding to do so, it made no commitments in advance on what accessibility barriers the Transportation Accessibility Standard would address, or how it would address them.

Similarly, when a community organization supports the AODA Alliance's call for the Ontario Government to develop an Education Accessibility Standard, it is not thereby signing on to endorse all or any of this Discussion Paper's proposals. The AODA Alliance welcomes feedback

on this Discussion Paper. What did we miss? What else should we include? Send your feedback to aodafeedback@gmail.com

If the Ontario Government agrees to develop an Education Accessibility Standard, we look forward to working together with students with disabilities and their families, with all of Ontario's disability community, to develop ideas on what the Education Accessibility Standard would include. We also look forward to working with the Government, school boards, colleges, universities, other educational organizations, as well as with those who work on the front lines of our education system. We now welcome feedback from all sectors to help us expand on this Discussion Paper's preliminary look.

The Education Accessibility Standard can and should incorporate measures that have worked successfully in some school boards or other settings. It can also include measures successfully used outside Ontario.

b) Who is the AODA Alliance?

The non-partisan AODA Alliance is a volunteer grassroots disability coalition. It advocates for the AODA's effective implementation and enforcement. For more background on the AODA Alliance, visit www.aodaalliance.org

c) What is an Education Accessibility Standard?

The AODA requires the Ontario Government to lead Ontario to become fully accessible to all people with disabilities by 2025. It covers all disabilities, including physical, mental, sensory, learning, intellectual mental health, communication and other disabilities. It addresses all accessibility barriers, including physical barriers, technological barriers, information barriers, communication barriers, bureaucratic barriers, legal barriers, and attitudinal barriers, among others. The AODA requires the Ontario Government to develop, enact and enforce all accessibility standards needed to ensure that Ontario becomes fully accessible by 2025.

What is an Education Accessibility Standard? It is an enforceable regulation, that the Ontario Government would enact under the AODA. It would set out measures that school boards, colleges, universities and other educational organizations must take to remove and prevent accessibility barriers that impede students with disabilities from fully participating in, being fully included in, and fully benefitting from education programs in Ontario. It would set deadlines for action.

An AODA accessibility standard can set longer deadlines for some organizations than others. For example, some organizations may need more time to remove accessibility barriers because the organization is smaller and has fewer resources.

By putting forth these ideas for discussion, the AODA Alliance fully recognizes that there are many teachers, professors and others throughout Ontario's education system, and in the Ontario Government's ministries responsible for education, who want to ensure that students with disabilities can fully participate in and be fully included in education in this province. A well-

crafted Education Accessibility Standard would enable them to better serve students with disabilities.

This Discussion Paper builds on ample feedback that the AODA Alliance has obtained over the years. It also draws on the [2015 report on education system barriers](#) that the KPMG consulting firm prepared for the Ontario Government. The KPMG report's contents show that Ontario's education system has significant accessibility barriers. These impede students with disabilities from being able to fully participate in and be fully included in Ontario's education system on a footing of equality. This Discussion Paper identifies a number of serious accessibility barriers in Ontario's education system that the KPMG report missed. To read the AODA Alliance's analysis of the 2015 KPMG report on accessibility barriers in Ontario's education system, visit <http://www.aodaalliance.org/strong-effective-aoda/november-9-2016-aoda-alliance-analysis-of-kpmg-education-barriers-report.docx>

d) Summary of This Discussion Paper's Ideas for the Education Accessibility Standard

1. Regarding the reach of the Education Accessibility Standard, this Discussion Paper offers these ideas:

- a) The purpose of the Education Accessibility Standard should be to ensure that Ontario's education system becomes fully accessible to all students with disabilities by 2025, the AODA's deadline, by requiring the removal and prevention of recurring accessibility barriers that impede students with disabilities. It should aim to ensure that students with disabilities can fully participate in and be fully included in Ontario's education system on a footing of equality. It should aim to eliminate the need for students with disabilities and their families to have to fight against education accessibility barriers, one at a time, and the need for educational organizations to have to re-invent the accessibility wheel, one educational program at a time.
- b) The Education Accessibility Standard should apply to any organization that provides educational programming in Ontario. This should include all schools and school boards, whether or not they are publicly funded, colleges, universities, job training programs, experiential learning programs, and pre-school educational programs.
- c) The Education Accessibility Standard should ensure that educational organizations address accessibility barriers facing students with any kind of disabilities, not just those disabilities which Ontario's 36-year-old outdated special education regulations recognize. This should include students with a physical, mental, sensory, intellectual, mental health, learning, communication, neurological or other kind of disability – all the disabilities covered by the Ontario Human Rights Code, the Canadian Charter of Rights and Freedoms and the Accessibility for Ontarians with Disabilities Act.

2. This Discussion Paper proposes that the Education Accessibility Standard can and should include the following to address recurring accessibility barriers in Ontario's education system:

- a) systematic measures that will make it easier and more effective to include students with

disabilities in the mainstream, where appropriate. Inclusion will be easier when accessibility barriers are removed from all educational settings, including the mainstream educational setting.

b) accessibility requirements for the built environment in Ontario's education system, such as in schools, colleges and universities. For example, it can and should set accessibility requirements for new buildings, and for significant renovations to or additions to existing ones. As well, retrofits can be specified to existing buildings that are not undergoing any major renovations.

c) digital accessibility requirements for Ontario's education system at all levels. Digital technology, such as desktop and laptop computers, tablets, online learning resources and libraries, and other smart technologies are rapidly expanding across Ontario's education system. Yet there are no effective comprehensive plans in place in Ontario's education system to ensure that the digital learning environment at each school board, college, university and other educational organizations is fully accessible.

d) provincial standards on students with disabilities bringing a service animal to school.

e) requirements to ensure that instructional materials used in Ontario's education system are fully accessible to students with disabilities who need to use them and are available when needed.

f) requirements to ensure that the curriculum taught in Ontario's education system is designed based on principles of "Universal Design in Learning (UDL), to be accessible for students with disabilities. for example, The Education Accessibility Standard should include provisions to address specific barriers to STEM (science, technology, engineering and mathematics) curriculum, e.g. facing students with vision loss and learning disabilities.

g) measures to eliminate attitudinal barriers among students without disabilities that impede the full inclusion of students with disabilities in Ontario's education system.

h) measures to ensure that any testing of students in Ontario's education system is conducted in a way that fairly and accurately assesses students with disabilities.

i) requirements addressing accessibility barriers in admission criteria for educational programs offered in Ontario.

j) measures aimed at ensuring that students with disabilities can fully participate in experiential learning at all levels of Ontario's education system.

k) measures addressing barriers to full inclusion of students with disabilities arising from the content of training of teachers working in Ontario's schools.

l) measures to remove barriers impeding students with disabilities and their families from getting prompt and ready access to important information they need to fully participate in and be fully included in Ontario's education system, such as options for them, and how to access them.

m) measures that will remove and prevent bureaucratic procedural barriers that can impede the

effective accommodation of individual students with disabilities at all levels of Ontario's education system. It would help students with disabilities, their families and educational organizations, for Ontario to create a prompt, fair process for students with disabilities to take part in decisions regarding their education accommodation needs, and to appeal if results are insufficient or are not effectively implemented. Where there are disagreements or potential misunderstandings, it would help educational organizations and students with disabilities to have a constructive process for trying to reach a consensus.

3. This Discussion Paper also highlights these other considerations regarding the Education Accessibility Standard:

a) The proposal that the Ontario Government develop an Education Accessibility Standard is not contingent on the Ontario Government appropriating new funds to this issue. Providing accessibility to students with disabilities has been required under the Ontario Human Rights Code and the Charter of Rights for over three decades. It is a regular cost of operating an educational organization, not some new and special add-on. A well-designed Education Accessibility Standard should save money.

b) An Education Accessibility Standard would not set out the number of individual staff support hours that each student with a disability would receive in an education program.

c) The Education Accessibility Standard Should Not Set Rigid and Inflexible Rules on Integration versus Segregation of Students with Disabilities

2. Reach of the Education Accessibility Standard

a) Purpose of the Education Accessibility Standard

The purpose of the Education Accessibility Standard should be to ensure that Ontario's education system becomes fully accessible to all students with disabilities by 2025, the AODA's deadline, by removing and preventing recurring accessibility barriers that impede students with disabilities. It should aim to ensure that students with disabilities can fully participate in and be fully included in Ontario's education system on a footing of equality. It should aim to eliminate the need for students with disabilities and their families to have to fight against education accessibility barriers, one at a time, and the need for educational organizations to have to re-invent the accessibility wheel, one educational program at a time.

The Education Accessibility Standard, like the AODA itself, should aim to ensure that organizations in Ontario's education system fulfil their duties to students with disabilities under the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms. The Ontario Human Rights Code and, where applicable, the Canadian Charter of Rights and Freedoms impose a legal duty on educational organizations like school boards to accommodate the needs of students with disabilities, and to remove and prevent disability accessibility barriers, up to the point of undue hardship to the organization.

Where "inclusion" in education is to be provided, this does not simply mean dumping all

students with disabilities in the current mainstream classroom settings "as is," leaving them to sink or swim. It includes providing needed supports for those students. It does not mean that segregated educational settings for some students with disabilities will never be permitted. However, inclusion should be available except where demonstrably counterproductive, and where the student or family agrees to an exception to inclusion.

b) Educational Organizations that the Education Accessibility Standard Should Address

The Education Accessibility Standard should apply to any organization that provides educational programming in Ontario. This can and should include all schools and school boards, whether or not they are publicly funded, colleges, universities, job training programs, experiential learning programs, and pre-school educational programs.

c) Disabilities to Be Addressed - Ensuring Proper Accommodation of Students with Mental Health Needs and Other Disabilities Which Ontario's Special Education Legislation Now Leaves Out

The Education Accessibility Standard can and should ensure that educational organizations address accessibility barriers facing students with any kind of disabilities, not just those disabilities which Ontario's 36-year-old and outdated special education regulations recognize. This should include students with a physical, mental, sensory, intellectual, mental health, learning, communication, neurological or other kind of disability -all the disabilities covered by the Ontario Human Rights Code, the Canadian Charter of Rights and Freedoms and the Accessibility for Ontarians with Disabilities Act.

Ontario's special education regulations extend rights to students with conditions that the regulations call "exceptionalities." That outdated term erroneously implies that these students are abnormal people.

"Exceptionalities" do not include *all* the disabilities that are included in the definition of disability in the Ontario Human Rights Code. Yet educational organizations, such as school boards, have a duty to accommodate and provide accessibility for students with all the different kinds of disabilities, not just those which Ontario's Education Act defines as "exceptionalities." Section 1(1) of the Education Act defines an "exceptional pupil" as follows:

"“exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he or she is considered to need placement in a special education program by a committee, established under subparagraph iii of paragraph 5 of subsection 11 (1), of the board,

(a) of which the pupil is a resident pupil,

(b) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or

(c) to which the cost of education in respect of the pupil is payable by the Minister;"

As one major problem, Ontario's Education Act does not define a mental health condition as an "exceptionality." Exceptionalities in Ontario's Education Act include "behavioural" issues. Therefore, the mental health condition may have to rise to a situation of a behavioural problem, to entitle a student to protection under Ontario's special education provisions.

We hope and trust that responsible school boards will want to formally or informally meet the needs of students with mental health conditions. The Ontario Government has commendably made mental health a greater priority in recent years.

However, that alone does not fix the systemic barriers that students with mental health conditions can face in Ontario's education system. The Education Accessibility Standard is a good way to address this.

3. Specific Recurring Barriers that the Education Accessibility Standard Can and Should Address

a) Inclusive Education Strategies Generally

The Education Accessibility Standard can and should include systematic measures that will make it easier and more effective to include students with disabilities in all educational settings, including in the mainstream classroom setting, where appropriate. Inclusion will be easier to achieve when accessibility barriers are removed from the mainstream educational setting.

The balance of this Discussion Paper offers a range of proposals to support this. Beyond those individual measures referred to below, the Education Accessibility Standard can and should mandate broad strategies to facilitate the transition in favour of inclusion, where possible and appropriate.

For example, where a school board offers segregated classes, these should be situated in a location and a way that will assist students with disabilities in those classes to be eased, where appropriate, into mainstream learning settings, even on a gradual, or trial, or part-time basis.

The Ontario Government has spoken in support of including students with disabilities in the education system's mainstream. Yet this has in large part been left to each educational organization to work out and re-invent, and to each family to advocate for, on a student by student basis.

b) Addressing Built Environment Barriers in Ontario's Education System

The Education Accessibility Standard can and should set accessibility requirements for the built environment in Ontario's education system, such as in schools, colleges and universities. For

example, it can and should set accessibility requirements for new buildings, and for significant renovations to or additions to existing ones. As well, retrofits can be specified to existing buildings that are not undergoing any major renovations.

Many incorrectly think that such accessibility needs are all now fully met by the Ontario Building Code, so that this problem is now fully addressed, at least for new buildings and major renovations. That is wrong.

The Ontario Building Code has some built environment accessibility provisions. These were updated a few years ago. However, those updates were inadequate. As well, they are not targeted at and tailored for educational organizations. A brand-new school, college, university or other building that is designed to fully comply with the Ontario Building Code can easily still have significant accessibility problems.

For example, there are distinctive accessibility barriers for schools, pre-school programs and day care programs that a broad building code typically does not sufficiently address. Typically, if a building code addresses washroom accessibility, it would require grab bars at a height appropriate for an adult. Yet in an elementary school or pre-school, that is useless for a Grade 2 student with a mobility disability.

The built environment in Ontario's schools, colleges and universities is not now fully accessible to students with disabilities. At the start of 2016, only 85 of the 550 schools in the Toronto District School Board were physically accessible, according to whatever measure of accessibility TDSB uses.

As well, the media recently brought to public attention significant accessibility problems with two pricey new university buildings: Ryerson's new Student Learning Centre, and the recently-renovated Osgoode Hall Law School at York University. These are just two illustrations of the fact that new buildings can have serious accessibility barriers designed right into them from the beginning.

Ontario has no mandatory and comprehensive plan or accessibility standards in place that will ensure that Ontario's education system's buildings will become fully accessible by 2025, or ever. School boards, colleges and universities have no provincial accessibility standard to turn to, to know how to design a new building or a renovation or addition to an old one, or to retrofit an old building, to ensure its physical accessibility. Each educational organization is left to repeatedly spend money hiring experts, reinventing the wheel, and too often making major mistakes with public money. This would all run afoul of [Premier Wynne's written promise](#) in the 2014 election that public money would not be used to create or exacerbate accessibility barriers against people with disabilities.

In the absence of provincial action on this issue, the Special Education Advisory Committee at Canada's largest school board, the Toronto District School Board, made [detailed recommendations](#) on what TDSB should do to address built environment barriers, pending such provincial action. Those ideas can and should apply equally to all school boards and other educational organizations. The 2015 KPMG report on education system accessibility barriers,

conducted for the Ontario Government, gave examples of action in other jurisdictions which could be helpful, including those in Alberta, New York City, and, in more general terms, Saskatchewan. This all shows why a provincial Education Accessibility Standard is a more effective and cost-effective solution.

c) Barriers in Digital Technology Used in Ontario's Education System

The Education Accessibility Standard can and should aim to ensure digital accessibility in Ontario's education system at all levels.

Digital technology, such as desktop and laptop computers, tablets, online learning resources and libraries, and other smart technologies are rapidly expanding across Ontario's education system. Yet there are no effective, comprehensive plans in place in Ontario's education system to ensure that the digital learning environment at each school board, college, university and other educational organizations is fully accessible. Unlike the buildings in Ontario's education system, the digital technology is largely new, and is very regularly replaced with even newer hardware and software. Ensuring digital accessibility is not hard to do.

As an example of an obvious failing, many educational organizations, such as colleges and universities, use learning management systems. The public pays for these. Yet we have seen no effective effort by the Ontario Government to ensure that the ones that are purchased and deployed in Ontario's educational organizations are fully accessible. We know of two universities that now use the popular "Moodle" learning management system, without ensuring any of their faculty use its available accessibility features.

Here again, each educational organization is left to re-invent the same wheel. The only provisions in AODA standards on point address website requirements. While helpful, these are incomplete and will soon be out-of-date, as a means for ensuring digital accessibility in Ontario's education system.

In June 2016, TDSB's Special Education Advisory Committee [made detailed recommendations](#) on what TDSB should do to address its substantial deficiencies in the area of digital accessibility. As well, the 2015 KPMG report on education accessibility barriers identified emerging and recurring accessibility barriers in the area of websites and online learning tools, warranting further action in Ontario. As with the built environment, this is far more efficiently addressed by one province-wide accessibility standard, then by burdening each school board to struggle with figuring out what to do.

d) Use of Service Animals

The Education Accessibility Standard can and should set provincial standards regarding situations where students with disabilities need to bring a service animal to school.

Some students with disabilities benefit from the use of service animals. For example, some students with autism spectrum disorder greatly benefit from a service dog that assists them in self-regulating. Yet these students and their families can have to fight, one school board at a

time, to be allowed to bring their service animal to school. This is so even though for decades, the Ontario Human Rights Code has banned such discrimination against people with disabilities using service animals.

Depending on the school board, a family may find that their child is allowed to bring the service animal to school, or is not allowed to do so, or is allowed to do so only if a parent will rush to school to clean up after the animal. The [February 3, 2014 Toronto Star](#) reported on this recurring unfair barrier. Students with disabilities and their families should not have to wage these battles, school board after school board.

e) Improved Measures Aimed at Ensuring the Accessibility of Instructional Materials

The Education Accessibility Standard can and should include effective measures to ensure that instructional materials used in Ontario's education system are fully accessible to students with disabilities who need to use them, and are available when needed. From the technological perspective, it is easier than ever to ensure the accessibility of instructional materials used in Ontario's education system, e.g. for students with vision loss or dyslexia. Readily available technology can achieve this at very low cost.

Yet students with disabilities still encounter too many instances when they cannot get needed instructional materials in an accessible format, at the time when they need to use them in their studies. This is so despite the fact that accessibility standards in Ontario impose obligations on educational organizations to procure instructional materials in a conversion-ready format. Section 15 of the Integrated Accessibility Standards Regulation provides:

"15. (1) Every obligated organization that is an educational or training institution shall do the following, if notification of need is given:

1. Provide educational or training resources or materials in an accessible format that takes into account the accessibility needs due to a disability of the person with a disability to whom the material is to be provided by,

i. procuring through purchase or obtaining by other means an accessible or conversion ready electronic format of educational or training resources or materials, where available, or

ii. arranging for the provision of a comparable resource in an accessible or conversion ready electronic format, if educational or training resources or materials cannot be procured, obtained by other means or converted into an accessible format.

2. Provide student records and information on program requirements, availability and descriptions in an accessible format to persons with disabilities.

O. Reg. 191/11, s. 15 (1).

(2) For the purposes of this section and sections 16, 17 and 18, an obligated organization is an educational or training institution if it falls into one of the following categories:

1. It is governed by the Education Act or the Private Career Colleges Act, 2005.
2. It offers all or part of a post-secondary program leading to a degree pursuant to a consent granted under the Post-secondary Education Choice and Excellence Act, 2000.
3. It is a designated public sector organization described in paragraph 3 or 4 of Schedule 1.
4. It is a public or private organization that provides courses or programs or both that result in the acquisition by students of a diploma or certificate named by the Minister of Education under paragraph 1 of subsection 8 (1) of the Education Act.
5. It is a private school within the meaning of the Education Act.
O. Reg. 191/11, s. 15 (2).

(3) Obligated organizations to which this section applies shall meet the requirements of this section in accordance with the following schedule:

1. For large designated public sector organizations, January 1, 2013.
2. For small designated public sector organizations, January 1, 2015.
3. For large organizations, January 1, 2013.
4. For small organizations, January 1, 2015.
O. Reg. 191/11, s. 15 (3)."

Students with disabilities should not have to individually struggle to get instructional materials in a format they can read. The Education Accessibility Standard should include much more specific measures to ensure that educational organizations are able and equipped to meet this need in a timely fashion. How this is achieved can vary, depending on whether the organization is large, like a school board or major university, or a smaller organization.

f) Ensuring Universal Design Principles are Embedded in Curriculum Taught in Ontario's Education System

The Education Accessibility Standard can and should include requirements to ensure that the curriculum taught in Ontario's education system is designed based on principles of Universal Design in Learning (UDL), to be accessible for students with disabilities.

It will be far easier to include students with disabilities in the mainstream educational setting, if

effective steps are taken to ensure that UDL principles are incorporated into the curriculum taught in Ontario's education system, and are followed when an instructor prepares their lesson plans. The Education Accessibility Standard could include provisions to promote these goals.

As just one example, the Ontario Government's fall 2016 Throne Speech has made improved math performance a major priority for all students. The September 16, 2016 Throne Speech included:

" Your government is committed to making sure students have the excellent literacy and numeracy skills they need to succeed.

To help students improve their mathematics skills, your government is implementing a renewed math strategy, including having up to three math lead teachers in all elementary schools. "

There is no indication that the Ontario Government took needed steps to ensure that those math coaches, hired at public expense, have the needed expertise in UDL, to make math curriculum accessible to students with disabilities. There is also no indication that the Ontario Government has effectively incorporated UDL principles for students with disabilities into provincial math curriculum. The 2015 KPMG report on education accessibility barriers noted the existence of specific barriers to STEM (science, technology, engineering and mathematics) curriculum, e.g. for students with vision loss. The Education Accessibility Standard can and should include provisions to address specific barriers to STEM (science, technology, engineering and mathematics) curriculum, e.g. facing students with vision loss and learning disabilities.

g) Addressing Recurring Attitudinal Barriers that Impede Students with Disabilities

The Education Accessibility Standard can and should include measures to eliminate attitudinal barriers among students without disabilities—attitudes that can impede the full participation and inclusion of students with disabilities in Ontario's education system.

For students with disabilities to fully participate in and be fully included in Ontario's education system, it is important to ensure that there are no attitudinal barriers to their inclusion, among students without disabilities. This goes far beyond anti-bullying legislation.

The Education Accessibility Standard can and should require concerted effort to include disability issues in the mainstream school curriculum. This can help ensure that all classrooms are a welcoming environment for students with disabilities.

Ontario has not taken such concerted effort. This is so even though nine years ago, in the 2007 Ontario general election, Premier Dalton McGuinty promised as follows in [his September 14, 2007 letter](#) to the AODA Alliance:

"Institute a new program to ensure that students in schools and professional organizations are trained on accessibility issues.

We already include awareness of and respect for students with special needs: in every curriculum document there is a front piece on planning programs for students with special education needs. Disability awareness is an expectation in the Grade 12 Social Sciences and Humanities course. Our government also introduced character education.

Character education is about schools reinforcing values shared by the school community – values such as respect, honesty, responsibility and fairness. It is about nurturing universal values, upon which schools and communities can agree. We will ensure that this curriculum includes issues relating to persons with disabilities."

Some schools or teachers, on their own, now commendably include something about this at some time in their curriculum. However, there is no indication that this is widely done, and at a level that is sufficient to eliminate attitudinal barriers. The Education Accessibility Standard can and should address this across-the-board, in a way that far more effectively removes and prevents attitudinal barriers among students without disabilities. the 2015 KPMG report on education accessibility barriers referred to measures in some other jurisdictions on this. it also identified anti-bullying legislation as a priority to address in Ontario's education system.

h) Barriers in Testing of Students with Disabilities

The Education Accessibility Standard can and should include measures to ensure that any testing of students in Ontario's education system is conducted in a way that fairly and accurately assesses students with disabilities.

Testing has become more and more important, both for a student's individual evaluation, and in connection with province-wide testing. Historically, testing and other evaluation measures were not designed to ensure that they are barrier-free for students with disabilities.

The Education Accessibility Standard can and should set specific requirements to ensure that testing and evaluation of students with disabilities accommodates the education needs of students with a wide range of disabilities. Here again, this would relieve each school board, college, university and other educational organization from the burden of having to figure this out on their own. It would also free students with disabilities and their families from having to take on yet another battle to ensure fair treatment in educational organizations.

i) Barriers in Education Program Admission Criteria

The Education Accessibility Standard can and should set requirements addressing accessibility barriers in admission criteria for educational programs offered in Ontario.

At times, admission criteria for an educational program can create accessibility barriers for people with disabilities. For example, if a specific prerequisite is one which, due to disability, a student could not fulfil, it can serve as a total bar to admission into that program. If the student

with a disability could otherwise fully take part in and benefit from that education program, such an arbitrary barrier can work a real hardship. The Ontario Human Rights Code would require an educational organization in that situation to consider whether a modification to that admission requirement could be implemented without undue hardship.

If an educational organization offered a program that requires students to complete an admission test, that test must be designed to accommodate students with disabilities, or the organization must be prepared to provide a comparable alternative method of assessing an applicant who is impeded by those accessibility barriers.

The Education Accessibility Standard would not itself set admission requirements for each program. However, it can set requirements to ensure that those admission criteria are not allowed to become unjustified and unfair accessibility barriers.

j) Barriers to Full Participation in Experiential Learning

The Education Accessibility Standard can and should include measures aimed at ensuring that students with disabilities can fully participate in experiential learning at all levels of Ontario's education system.

Experiential learning is an important and growing part of Ontario's education system. It can include formal placements with employers for a fixed full-time period, or more informal part-time placements.

For students with disabilities such placements are especially important. They can serve as a vital way into Ontario's job market. People with disabilities chronically face exceptionally high unemployment rates in Canada.

Ontario's September 16, 2016 Throne Speech announced expanded provincial efforts on experiential learning. It committed that the Ontario Government "...is also setting a goal for every young person to have at least one opportunity for experiential learning."

Yet Ontario now has in place no comprehensive enforceable mandatory plan or strategy to ensure that hundreds of thousands of students with disabilities in Ontario's education system will be able to fully participate in experiential learning opportunities available in Ontario. These are among the recurring accessibility barriers that students with disabilities and their families should not have to battle one at a time, among the many public and private sector organizations that will host experiential learning opportunities.

An educational organization that includes experiential learning in its curriculum, such as a school board, college or university, should be required to take specific pro-active steps to ensure that its students with disabilities will get to fully participate and be fully included in the experiential learning programs it offers. For example, that educational organization should be required to ensure that its application and placement process is barrier-free for students with disabilities. As well, when recruiting and overseeing placement opportunities, the educational organization should be taking their accessibility into account. The educational organization should work with

these placement organizations to ensure that they remove and prevent accessibility barriers that would impede the placement of a student with a disability that wants to go there. If problems in a placement are encountered, the educational organization should be positioned to intervene to assist students with disabilities to ensure they face no accessibility barriers.

As well, it is important to put in place accessibility requirements for apprenticeship programs which must be completed to qualify for a profession or trade. Accessibility barriers in apprenticeships, if not removed, can impede access to entire career paths.

k) Barriers in Teacher Training

The Education Accessibility Standard can and should include measures addressing barriers to full inclusion of students with disabilities that arise from the content of training of teachers working in Ontario's schools.

To provide students with disabilities with the best chance for full inclusion in mainstream classes, the teachers working in those classrooms need to have the training they need to effectively teach students with a wide range of different learning styles and abilities. Historically, Ontario's education system was built on a segregated approach to teacher training. Teachers meant to teach students with special education needs were trained as "special education teachers." In contrast, teachers destined for the mainstream classroom were trained primarily if not totally to teach students who have no special education needs. As a result, it is not unusual for a well-intentioned mainstream classroom teacher to be worried and stressed if students with disabilities are placed in their classroom. This is because they were not trained for this situation.

In recent years, there has been some broadening in the training of some mainstream classroom teachers. However, this has not been not enough to remove this accessibility barrier. For example, we have no indication of how many teachers know about and have received sufficient training in Universal Design in Learning (UDL). If they have not received sufficient training in UDL, it is unlikely that they will practice it.

The Education Accessibility Standard can and should address this at the level of training for those who teach at all levels of Ontario's education system. It was commendable that the Ontario Government included a general requirement on this issue in 2011 in the Integrated Accessibility Standards Regulation. Section 16 of the IASR provides:

"Training to educators

16. (1) In addition to the requirements under section 7, obligated organizations that are school boards or educational or training institutions shall provide educators with accessibility awareness training related to accessible program or course delivery and instruction.

O. Reg. 191/11, s. 16 (1).

(2) Obligated organizations that are school boards or educational or training institutions shall keep a record of the training provided under this section, including the dates on which the training is provided and the number of individuals to whom it is provided.

O. Reg. 191/11, s. 16 (2).

(3) Obligated organizations to which this section applies shall meet the requirements in this section in accordance with the following schedule:

1. For large designated public sector organizations, January 1, 2013.

2. For small designated public sector organizations, January 1, 2015.

3. For large organizations, January 1, 2013.

4. For small organizations, January 1, 2015.

O. Reg. 191/11, s. 16 (3).

(4) In this section,

“educators” means employees who are involved in program or course design, delivery and instruction, including staff of school boards;

“school board” means a board as defined in subsection 1 (1) of the Education Act."

However, half a decade after that provision was enacted, there is no indication that it has solved this problem or even made a significant dent in it. The KPMG report on education accessibility barriers identified efforts in certain other jurisdictions to more effectively train mainstream classroom teachers on meeting the needs of students with disabilities in their classes.

l) Barriers Impeding Students with Disabilities and their Families from Getting Essential Information to Ensure They Can Fully Participate in Ontario's Education System

The Education Accessibility Standard can and should remove barriers impeding students with disabilities and their families from getting prompt and ready access to important information they need to fully participate in and be fully included in Ontario's education system, such as information about the educational options for them and how to access them.

The Education Accessibility Standard should put in place a prompt and effective process to ensure that all parents and guardians of students with disabilities get the information they need to address the student's disability-related needs, and that this is done as soon as possible during a student's engagement with Ontario's education system.

Parents and guardians of students with disabilities and, where possible, students with disabilities themselves, need direct, easy access to important information about education opportunities, programs, supports, accommodations and services available to them in Ontario's education system. They have a right to know all the important information they need about these, and about whom to go to within an educational organization, and how to pursue their effective inclusion and accommodation.

This information must be easy for parents and students to find. It should be available in plain language for parents and families of students with disabilities and in a wide range of languages to meet the diversity of linguistic communities that Ontario's education system serves.

Too often, school boards and other organizations in Ontario's education system are not effectively meeting these important information needs. Students with disabilities and their parents and guardians too often find it very difficult to find this important information. As one example, the 2016 final report of the Barbara Hall review of TDSB governance further documented that TDSB is not effectively ensuring that parents, guardians and students have the information they need. It found:

“Parents expressed frustration at their inability to advocate for their children's special education needs in an effective way. They feel isolated, afraid and unsure of how to work with the school board administration to support their children's learning needs. They also said that the specific information they require to be informed about the options available to support students is not easily accessible on the website or from any other source.”

As a result, the TDSB Special Education Advisory Committee has described that school board's Chair as akin to a restaurant that won't provide its menu. In June, 2016, the TDSB Special Education Advisory Committee presented [detailed recommendations](#) on the need to systematically remove this recurring barrier that impedes students with disabilities and their families. Its recommendations would benefit all school boards across Ontario.

m) Bureaucratic Procedural Barriers Impeding Effective Accommodation of Students with Disabilities

The Education Accessibility Standard can and should establish measures that will remove and prevent bureaucratic procedural barriers that can impede the effective accommodation of individual students with disabilities at all levels of Ontario's education system.

The 2015 KPMG report on education accessibility barriers, prepared for the Ontario Government, showed that there are Long delays in getting needed individual accommodations and needed professional assessments. It found bureaucratic barriers that impede access to needed educational supports and accommodations, and recurring poor transition planning for students with disabilities. It also reported to the Ontario Government about insufficiently including students with disabilities and their families in educational planning to meet the student's accommodation needs.

As such, a major barrier that can impede students with disabilities and their families is the current lack of a sufficient formal inclusive process for students with disabilities or their families to take part in an educational organization's decisions on how their needs will be individually accommodated, and the lack of a formal right of appeal to question the educational organization's plans and actions to meet the student's accommodation needs. The Education Accessibility Standard could and should address this.

If an Education Standards Development Committee makes recommendations in this area, the Ontario Government might implement them in the Education Accessibility Standard itself, or through changes to Ontario's outdated 36-year-old special education regulations, or through a combination of the two. The choice of the proper legal tool for implementing change is one that need not be made now. It would be made after an Education Standards Development Committee has made recommendations, and after the Government decides what changes it wishes to make.

Insofar as schools are concerned, Ontario's special education regulations do not spell out important and much-needed details on such things as:

- a) Exactly how the student's Individual Education Plan (IEP) is to be developed, and how parents, guardians, and where practicable, the student is to be involved in that process;
- b) What parents and guardians of students with disabilities are to be told in advance or during the IEP development process, about the IEP development process, and their rights in the IEP development process;
- c) Establishing a prompt, fair, independent and impartial process for parents and guardians of students with disabilities, or the students themselves, to go if they are not satisfied with the IEP that a school board proposes, in order to get a review of the proposed IEP;
- d) Establishing a prompt, fair, independent and impartial process which parents and guardians of students with disabilities can use, if they believe that the school board is not fully implementing a student's IEP.

Each year, Ontario's publicly-funded schools have 334,000 disability education accommodation cases to assess and address. That number does not include the numbers of disability education accommodation cases that colleges and universities must annually address.

As a point of comparison, many large organizations in the public and private sector set up internal human rights and discrimination units. These are a voluntary internal process for investigating and resolving workplace human rights complaints and concerns without the need for an employee to resort to filing a human rights complaint with the Human Rights Tribunal of Ontario.

It would help students with disabilities, their families and educational organizations, for Ontario to create a prompt, fair process for students with disabilities to take part in decisions regarding their accommodation needs, and to appeal if results are insufficient or are not effectively implemented. Where there are disagreements or potential misunderstandings, it would help both

educational organizations and students with disabilities to have in place a process to try to reach a consensus. We anticipate that some school boards do this. others do not.

The 2015 KPMG Report on education accessibility barriers, prepared for the Ontario Government, commendably concluded that Ontario needs a process for resolving disputes between schools and students with disabilities or their families regarding accommodation of their disability-related needs. Among other things, KPMG identified the lack of a formal appeal process for students with disabilities or their families to question the educational organization's plans and actions to meet the accommodation needs of the student. The KPMG report also noted insufficient Government monitoring of the implementation of Individual Education Plans (IEPs) for students with disabilities in school, college or university. To improve the accommodation of individual students with disabilities the KPMG report emphasized, among other things, trends emerging elsewhere, focusing on putting the individual first, more effectively defining and implementing reasonable accommodations of individual students with disabilities, and policies to facilitate conflict resolution between parents and schools.

In Ontario, students with disabilities and their families have no formalized right of appeal if they are dissatisfied with the contents of a proposed IEP, or with its implementation. Their only recourse is to file a human rights complaint with the Human Rights Tribunal of Ontario. That is a costly, intimidating, protracted adversarial and conflictual process.

Ontario's special education laws only let a family appeal from the school board's decision "placement" of students with special education needs i.e., in mainstream class or in a special education class. There is no such formal right of appeal regarding a school board's decision over the program, services, or other accommodations to provide students with disabilities or on how the student's disability-related needs are met.

In June 2016, TDSB's Special Education Advisory Committee recommended that TDSB establish such an internal process, including a right of appeal, due to this gap in Ontario's law. The background to that motion states in part:

"It would help both families and TDSB for TDSB to create a fair internal appeal process for IEP and other education accommodation issues. Ontario special education regulations do not prevent TDSB from doing so. Such a process is especially important for a school board as large as TDSB.

The 2016 final report of the Barbara Hall review of TDSB governance, quoted above, made findings that support the need for substantial improvement in this area. To repeat, it concluded:

“Parents expressed frustration at their inability to advocate for their children's special education needs in an effective way. They feel isolated, afraid and unsure of how to work with the school board administration to support their children's learning needs.”

The KPMG Report shows that Alberta and British Columbia provide a right of appeal for

students with disabilities. The KPMG Report also reviewed the broader due process rights in the U.S. for students with disabilities and their families. This reinforces the need for an appeal process in Ontario.

Such new procedures would better serve families and students. They would ultimately save educational organizations money, while improving the delivery of education services to these students.

Ontario's laws do not mandate any such procedures in post-secondary education, for the accommodation of students with disabilities. The Education Accessibility Standard can and should include measures on this topic tailored to post-secondary educational organizations.

4. Other Considerations

a) Addressing the Cost of Providing Accessibility in Ontario's Education System

Some may ask who is going to pay for the accessibility measures that the Education Accessibility Standard addresses. It is, of course, open to the Ontario Government to provide additional funding to educational organizations for this. However, the proposal that the Ontario Government develop an Education Accessibility Standard is not contingent on the Ontario Government appropriating new funds to this issue. Here is why.

Providing accessibility to students with disabilities is a regular cost of operating an educational organization. The measures in an Education Accessibility Standard would implement an educational organization's existing duties under the Ontario Human Rights Code, and where applicable, the Charter of Rights. The duty to provide students with disabilities with full accessibility to and full inclusion in education is not some new mandate that would arise only when the Education Accessibility Standard is passed.

Put another way, educational organizations have been under a duty since 1982 to spend funds up to the point of undue hardship to ensure full inclusion of students with disabilities. They have also been under a duty to avoid creating new accessibility barriers against students with disabilities since 1982.

In any event, a well-designed Education Accessibility Standard should save money. As described throughout this Discussion Paper, it would reduce the need for each school board, college, university and other educational organizations to have to reinvent the wheel, repeatedly hiring accessibility consultants due to the lack of clear direction from the Ontario Government. An improved process for students with disabilities and their families to seek and take part in individual accommodations would reduce conflicts, avoid costly human rights litigation, and better serve all students, including students with disabilities.

We emphasize that the Ontario Government did not announce any additional funds for accessibility when it embarked on developing a Transportation Accessibility Standard under the AODA in 2006. It similarly has not announced any new funding on accessibility before it

announced in 2015 that it would develop a Health Care Accessibility Standard. Both the transportation and health care sectors, like the education sector, are substantially funded by the Ontario Government.

b) The Education Accessibility Standard Would Not Set Quotas on How Much Additional Staff Support Each Student with A Disability Would Receive

An Education Accessibility Standard would not set out the number of individual staff support that each student with a disability would receive in an education program. To set such staff support quotas is unrealistic, unhelpful and undesirable. Each student's needs must be individually assessed.

c) The Education Accessibility Standard Should Not Set Rigid and Inflexible Rules on Integration versus Segregation of Students with Disabilities

It is commendable that the Ontario Government has in recent years placed increasing emphasis on inclusion of students with disabilities in the mainstream educational setting. There remains a range of views on when it is appropriate for a student with a disability in a school setting to receive their education in a segregated setting.

It is not the role of the Education Accessibility Standard to provide a simplistic and categorical answer to this. As noted earlier, the aim of the Education Accessibility Standard is to remove and prevent accessibility barriers in Ontario's education system, so students with disabilities can be fully included in and can fully participate in it on a footing of equality.