

Canadian  
Association of the Deaf



Association  
des Sourds du Canada

# COMMUNICATING ACCESSIBILITY

A PROJECT REPORT ON FEDERAL ACCESSIBILITY LEGISLATION  
BY THE CANADIAN ASSOCIATION OF THE DEAF





# TABLE OF CONTENTS

---

<b>EXECUTIVE SUMMARY</b>	<b>4</b>
<b>PART I</b>	<b>9</b>
Background	9
Project Overview	12
International Legislation	20
Summary: Federal Discussion Guide “What does an accessible Canada mean to you?”	25
<b>PART II</b>	<b>27</b>
Background papers	27
The communications lens	56
<b>PART III</b>	<b>61</b>
Position papers – framework suggestions	64
Position papers from the partnering organizations	74
Comments from the partnering organizations	100
<b>PART IV</b>	<b>106</b>
Recommendations from CAD-ASC and the partners	106
Acknowledgments	126
About the organization	126
Project partner organizations	127

# EXECUTIVE SUMMARY

---

This Year One final report consists of four parts.

The first part provides an overview of project activities, a summary of the government's own Discussion Guide on accessibility legislation, and a review of international examples of accessibility legislation. The second part consists of ten Background Papers developed by the Canadian Association of the Deaf - Association des Sourds du Canada to inform and educate our partner organizations and communities about some of the issues that might be addressed through the federal accessibility legislation. The third part publishes position papers provided by some of our partner organizations to express their own ideas about the proposed new legislation. The final part lays out recommendations tied to the seven questions raised in the government's Discussion Guide.

CAD-ASC initiated this project because persons with communication disabilities and language differences are constantly deprived of information and are even set at a disadvantage in discussions among persons with other kinds of disabilities. Our

participation is always bogged down by time-lags (interpreters, intervenors, captionists, and other human communication facilitators), lack of alternative media (Sign language and captioned videos, Braille, simple language), and the momentum of discussions (even the most genial conversations among persons with other kinds of disabilities build up a speed that sees participants forget to strive for simple language and to avoid overlapping voices).

---

**People with communications disabilities and language differences, therefore, need their own project in order to participate fairly and equally in the conversation about federal accessibility legislation.**

---

Accordingly, we prepared Background Papers in which ten areas of accessibility were

examined, with reference to international approaches to each issue and what specific concerns the proposed legislation might address. On the heels of these enlightening Papers, our partner organizations were invited to submit their own Position Papers in which they offered their own ideas about the legislation.

Based on these Position Papers, and upon CAD-ASC's own positions, we then developed 24 recommendations for the federal accessibility legislation. In brief, these are the following:

### **Recommendation #1**

The legislation must recognize American Sign Language and la Langue des Signes Québécoise as official languages equal to English and French.

### **Recommendation #2**

The legislation must guarantee that babies and infants who are diagnosed as deaf, along with their families, will be immediately and continuously provided with exposure to, support in, and training in the acquisition of visual languages (American Sign Language and/or Langue des

Signes Québécois). At a minimum, the support the deaf children receive in acquiring ASL/LSQ as a first language must be equal to the support they receive in acquiring spoken/written language including English and/or French. The federal government must embrace responsibility for enforcing this provision with every provincial and territorial government.

### **Recommendation #3**

The legislation must mandate full communication accessibility, including simple language and alternative media.

### **Recommendation #4**

The legislation must include provisions for enforcement.

### **Recommendation #5**

The terminology utilized in the legislation must be developed and defined collaboratively by the communities of PWD and Deaf persons, not by the government alone.

### **Recommendation #6**

Special consideration must be

given in the legislation to ensure the development and support of mental health programs and services specifically targeted to persons with communication disabilities and Deaf persons. This should include a component aimed at recruiting and sponsoring such persons themselves to become qualified mental health professionals and practitioners.

### **Recommendation #7**

The legislation should take a hybrid approach in which the prescriptive outweighs the outcome-based. It should not take a complaints-based approach.

### **Recommendation #8**

Outcomes need to include independence and autonomy; i.e., they should not have the effect of making PWD and Deaf persons dependent upon others.

### **Recommendation #9**

Outcomes must include standards by which to implement the goal of accessibility and barrier removal.

### **Recommendation #10**

All organizations and industries which fall within federal jurisdiction should be covered by this legislation. In addition, all

entities and organizations – for-profit, not-for-profit, individuals, corporations, and otherwise – which receive, directly or indirectly, government funds (through grant opportunities, RFPs, procurement of goods or services, etc.) should be subject to the requirements of the Act.

### **Recommendation #11**

The legislation must clearly state that the Deaf person or the person with the disability is the one who decides what tool provides him/her with accessibility.

### **Recommendation #12**

Tools to address accessibility barriers and issues must include the communications lens, not just “universal design”.

### **Recommendation #13**

The legislation should create a federal funding mechanism to assist in removing, alleviating, or otherwise minimizing the costs of disability accommodation for all those goods, services, and businesses that will be affected by the legislation, with restrictions as to which bodies may apply for such funding, i.e., for-profit enterprises and government programs are not eligible to apply.

---

**Recommendation #14**  
**Accessibility rights are human rights. The new federal accessibility legislation must be integrated, not competitive, with existing legislation such as the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act.**

---

**Recommendation #15**

The legislation should take cognizance of accessibility standards already developed by provincial/territorial governments and other countries without being bound by them.

**Recommendation #16**

We recommend random unannounced audits to measure compliance with the legislation, rather than action plans, progress reports, or scheduled reviews/audits. We oppose a complaints-based monitoring approach.

**Recommendation #17**

Non-compliance must be met with enforcement including orders of compliance and monetary penalties.

**Recommendation #18**

The legislation should create an independent monitoring body entirely administered and staffed by persons with disabilities and Deaf persons. The alternative is to assign monitoring responsibilities to the Canadian Human Rights Commission with new dedicated funding to establish a program staffed entirely by persons with disabilities and Deaf persons.

**Recommendation #19**

The Office of Disability Issues must be provided with increases in funding to enable the disability organizations to carry out their work in removing barriers and promoting accessibility.

**Recommendation #20**

The Enabling Accessibility Fund should be closed and its funding transferred to a new national accommodation fund mandated by the legislation to assist small-to-medium businesses and non-commercial services such as shelters and transition houses in meeting the costs of accommodation that includes ongoing support services, not just renovations to the built environment.

### **Recommendation #21**

If the legislation creates a centre of expertise, the centre must be entirely run by Canadians with disabilities and Deaf Canadians.

### **Recommendation #22**

The legislation should mandate the use of a comprehensive Performance Report based on outcomes achieved; it must not, however, be a self-reporting exercise, rather it should be utilized by the independent monitoring team as per Recommendation #18 above.

### **Recommendation #23**

There should be an “always open” portal to allow the public to be involved in the compliance assessment process.

### **Recommendation #24**

The legislation itself should be reviewed annually in the first three years, biannually for the next six years, and every four years thereafter.

# PART I: BACKGROUND

---

Between July 2016 and February 2017, the federal government will be consulting with Canadians on planned accessibility legislation. The consultation is available in various formats: text, American Sign Language, and audio.

CAD-ASC submitted a project application which was one of six chosen for funding by Employment and Social Development Canada. The goal of our project is to submit two major reports to the federal government advising on their upcoming accessibility legislation. Working very closely with our partner organizations, we will provide the government with advice, analysis, and feedback from people who have communication disabilities and language differences of all kinds. Specifically, CAD-ASC and our partner groups will monitor the nature and progress of federal accessibility legislation. Feedback from each partner will help us develop “real-life” policy advice in all aspects of daily life. This advice will assist the government in its development of legislation, and will provide it with grassroots responses when that legislation is written.

The Government of Canada wants to promote equality of opportunity. It

also aims to increase the involvement and participation of Canadians with disabilities and Deaf Canadians in the country’s life. This can be done by improving accessibility and removing barriers in areas of federal control.

The Government of Canada is seeking ideas to help develop this planned new legislation, including:

- feedback on the overall goal and approach;
- who should it apply to;
- what accessibility issues and barriers it should address;
- how it could be monitored and enforced;
- when or how often it should be reviewed;
- how and when to report to Canadians about its progress;
- how to raise accessibility awareness and support organizations in improving it.

The upcoming legislation could address the following issues:

**1.** Improving accessibility and removing barriers in specific areas, such as:

- program and service delivery;

- the delivery of goods and services;
- employment;
- transportation and physical accessibility;
- information and communications.

## 2. Monitoring and enforcement:

- **Action plans:** The legislation could require organizations to submit action plans that would detail how they will improve accessibility and remove barriers for persons with disabilities and Deaf persons;
- **Progress reports:** The legislation could require organizations to submit progress reports about their progress in improving accessibility and removing barriers;
- **Reviews and audits:** The legislation could detail how action plans and progress reports might be checked through reviews, audits and/or inspections;
- **Complaints:** The legislation could detail how Canadians would submit complaints concerning an organization that may not be meeting its obligations under the legislation.

## 3. Programs to help and encourage organizations to improve accessibility and remove barriers:

- How can the government encourage, support and recognize organizations that show accessibility leadership? For example: reduced reporting requirements, public recognition or monetary incentives;
- The creation of a Centre of Expertise on Accessibility and Barrier Removal to provide information and tools to help organizations improve accessibility and remove barriers;
- Financial support for research and best practices on accessibility and barrier removal.

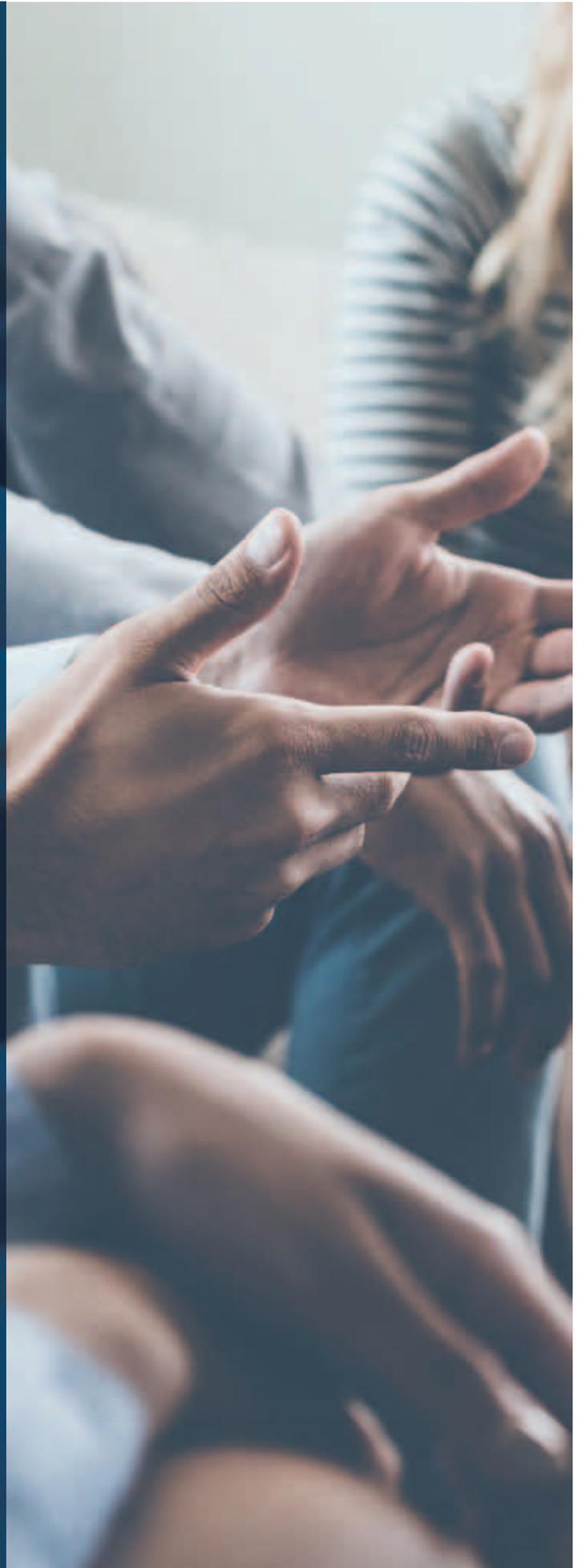
## 4. Sections that detail when and how the Government of Canada would report on the enforcement and effectiveness of the legislation, and when and how the legislation itself would be reviewed:

- How often would the people want the Government of Canada to report to Canadians about the effectiveness of the legislation?
- What kinds of things should this report look at?
- How often should the legislation be reviewed?
- Are there specific considerations for how any such review should be done?

---

**Communication accessibility is not limited to D/deaf, hard of hearing, deaf-blind, and blind people. It includes language and literacy, the tools of communication. This means we want to ensure the full inclusion not only of those with hearing or vision disabilities but also those with limited literacy skills, intellectual or developmental disabilities, language deprivation, and mental health issues.**

---



# PROJECT OVERVIEW

---

## Partners

CAD-ASC believes that those with communication, language, and literacy differences should have their own partnership project in this call for proposals. Even among the cross-disability movement, communication needs and language differences tend to be overlooked or downplayed; as an example, the so-called “universal design” initiative hardly ever goes beyond encouraging Braille signage, providing Sign language interpretation, and using the obsolete technology of TTY machines.

Communication accessibility is not limited to D/deaf, hard of hearing, deaf-blind, and blind people. It includes language and literacy, the tools of communication. This means we want to ensure the full inclusion not only of those with hearing or vision disabilities but also those with limited literacy skills, intellectual or developmental disabilities, language deprivation, and mental health issues.

We are working with 28 groups representing these segments of the community, finding ways to facilitate our intra-group communication and maintain contacts throughout the project’s development.

## Activities

First-year work accomplished:

- Brought together nearly 30 organizations whose focus is on communications, language and literacy differences;
- Effectively engaged in consultations, informed the partners about the development of federal accessibility legislation, and provided a strong presentation on issues such as employment, transportation, immigration, etc.;
- Created an evaluation survey to assess the project and its own communication accessibility;
- Created a one-page document introducing partners to the project and explaining their roles and responsibilities;
- Identified issues and impacts of federal accessibility legislation and improved the understanding of such legislation by providing the information in language that can be understood by persons with communications, language and literacy differences;
- Created and disseminated among the partnering organizations a before-and-

- after poll that ascertained that participants have increased their understanding of the issues;
- Created a set of background papers addressing topics for the federal accessibility legislation and two related corresponding surveys;
  - Collected ideas, concerns, suggestions, goals and feedback from the partner organizations;
  - Developed a “communication lens” paper;
  - Participated, contributed to and worked together with various disability and Deaf organizations during several conferences: CCD Strategic Planning Meeting (November 30th, 2016), Government of Canada’s Public Session on Federal Accessibility Legislation (November 30th, 2016), CRPD Advisory Committee meeting (December 1st, 2016), Senate Parliamentary Reception (December 1st, 2016), the 7th Annual Federal Policy Forum on Inclusion hosted by the Canadian Association for Community Living and People First of Canada (December 2nd, 2016).
  - Cooperated with the project partners attending these events to receive direct feedback and consultations related to the Federal Accessibility Legislation project;
- Many partner organizations provided a position/statement paper at the end of the year;
  - Many partner organizations contributed their feedback with regard to: a position paper questionnaire, background papers, communication lens paper.
  - Developed and submitted a first year’s final report to the federal government setting out our collective recommendations for communication issues to be addressed in federal accessibility legislation;
  - The first year’s final report included all of the position papers provided by the partner organizations, and recommendations for inclusion in the proposed federal legislation;
  - The first year’s final report is disseminated in alternate formats to increase awareness of the barriers faced by the people who have disabilities/ differences in the realms of communication, language and literacy. This report has been made available in ASL and LSQ video format with English and French captioning and voiceover. It has been prepared in simple language, and printed in large print. It has been available in portable and online formats so that blind

participants can choose their preferred accessible format.

## Challenges Encountered by Partners

- **Scope of work:** Perhaps the most daunting challenge experienced by our partnering organizations was their capacity to be fully involved in more than two approved projects including ours. Some partners could respond to our surveys, position papers and questionnaires in a prompt and diligent manner compliant with deadlines; others initially felt overwhelmed by the scope of required involvement;
- **Lack of resources:** Some of the partners had a great difficulty finding enough resources, both administrative and financial, to meet the demands of our project timelines. Some organizations even resorted to hiring an external employee to be able to match the pace of required contributions;
- **Lack of time:** Some partner organizations expressed occasional frustration over the tight deadlines. Due to the disability and language difference factors, many of their employees required additional time to respond, which slowed down the overall pace of the project's development;

- **Event scheduling difficulties:** Although we managed to have productive meetings with some of our partnering organizations during the International Day/Week of Persons with Disabilities, we were unsuccessful in holding a separate special session at the CCD conference since events to mark that occasion were not confirmed until the last minute.
- **Alternate media costs:** Because of the amount of written materials produced in this project, the costs of creating alternate media versions was astronomical. In addition, the sheer volume of outputs placed enormous stress on the producers of the Signed/captioned/voiced video version, requiring two months of work, a higher budget than anticipated, and the necessity of forgoing a video version of the Background Papers.

## Project Activities Results

**Position paper questionnaire:** As of January 17, 2017, 8 organizations (not including CAD-ASC itself) have submitted their position paper questionnaires. These documents are quite expansive and will be depicted in a separate chapter in Part III of this report.

## 1<sup>st</sup> Background Paper Survey

Prior to distributing the background papers on accessibility issues, we surveyed the partners on their knowledge of these issues. The background papers were then provided. A second survey, virtually the same as the first, was then distributed. By comparing the pre-distribution survey results with the post-distribution survey results, we were able to measure the effectiveness of our background papers in improving their knowledge and awareness of the issues.

The initial results demonstrated the respondents' ambiguous knowledge of current federal legislation.

- There was an approximately 50/50 split between those who believed that current federal legislation requires employers to hire PWD and Deaf people, and those who thought otherwise.
- Many people were not aware that health care services which receive federal funding are required by the Charter of Rights and Freedoms to provide accessibility (c.f. the Supreme Court of Canada decision in the Eldridge case).
- A sizeable portion of respondents were aware of the current state of the Court Challenges Program, and reiterated their hopes that the Trudeau Administration will take appropriate steps to revive it.

- Respondents were well-aware of the federal government's obligations to provide its own information in accessible formats.
- Many of the respondents erroneously believed that the Human Rights Act prohibits any discrimination regardless of the employer's status (i.e., governmental or private).

The results of our post-distribution survey demonstrated that the background papers were successful in assisting our constituents to better understand current legislation that implement federal accessibility initiatives.

## Background Papers

The following background papers were written in the belief that knowledge of current federal accessibility standards is essential for successful collective work on the project, its responsible development, and practical policy recommendations:

- 1. Employment:** We assessed the current rate of unemployment of people with disabilities and Deaf people. We compared unemployment rates among Canadians with disabilities and those without. In addition, we outlined existing governmental strategy and proposed several ideas on how to improve the situation regarding unemployed

people in the disabled and Deaf communities;

- 2. Poverty:** We discussed how economic inequities, such as those in income tax, customs duties, and postage rules, affect the lives of Canadians with disabilities and Deaf Canadians. We touched on the various federal and provincial programs and initiatives aimed at helping them. We talked about taxation fairness, a living income, and an insurance scheme that provides PWD and Deaf people with direct funding to choose and pay for their own personal support services;
- 3. Legal Protection and Access to Justice:** We outlined the challenges PWD and Deaf Canadians face when dealing with the judicial system. We discussed special training for judges and lawyers, as well as special accommodation in courts – both physical and psychological;
- 4. Language and Literacy:** We described the need for official recognition of Sign languages for Deaf people, and the linguistic accommodations for the Blind community and those with literacy challenges. We mentioned provincial and federal solutions that already exist and what remains to be done.
- 5. Immigration:** We described the so-called “disability clause” of the Canada Immigration Act and what should be done to make this country’s policies more favorable towards immigrants with disabilities and Deaf immigrants. Health Care: we talked about equal access to health care services, including employee assistance programs and mental health services. We also mentioned the key 1997 Supreme Court decision (Eldridge) that requires federal funding recipients to make their services accessible to PWF and Deaf people.
- 6. Health Care:** we talked about equal access to health care services, including employee assistance programs and mental health services. We also mentioned the key 1997 Supreme Court decision (Eldridge) that requires federal funding recipients to make their services accessible to PWF and Deaf people.
- 7. Education:** We set out educational issues that exist for our communities, such as lack of an “enabling environment”, lack of properly trained educators, and lack of proper communication means in educational facilities. We mentioned social, psychological, and cultural factors that prevent students with disabilities and Deaf students from getting a proper education, and how to correct them.

## **8. Technology and**

**Telecommunications:** The lack of inclusive technology, such as captioning, video description, accessible wireless devices and other means of telecommunications was discussed in this paper. We discussed how this accessibility can be achieved through the active and equal participation of PWD and Deaf people in development, regulation, and distribution.

## **9. Human Rights and Civil Rights:**

We discussed the sections of the Canadian Human Rights Act that prohibit discrimination against persons with disabilities and Deaf persons. We also reviewed the Equality Rights Section of the Canadian Charter of Rights and Freedoms that guarantees people with disabilities and Deaf people equal benefit and protection under the law.

**10. Transportation:** We reviewed how buildings, roads, transportation, and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces, can be made more accessible, and which legislative solutions already exist for those purposes.

## **2<sup>nd</sup> Background Paper Survey**

After assessing feedback and post-distribution survey results, a few conclusions can be made:

- Background papers played a positive role in expanding the partners' knowledge of the issues that can be handled through federal accessibility legislation;
- The information provided in the background papers was important and helpful to the partners when they later evaluated the communications lens paper and developed their own position papers;
- Background papers were assessed by some partners as "extremely comprehensive" and contributed to the general level of satisfaction with the project's development as reflected in the Year One evaluation survey.

## **Communication Preferences Survey**

The communication preferences survey was an important first step in the strengthening of relations between all organizations participating in our project. Since the partners represent a great variety of communication disabilities and language differences, the challenge was to ensure everyone had equal access to our consultations.

For instance, teleconferences would have been great for people with visual disabilities and literacy concerns, but they would be less than effective for people who are Deaf or deaf-blind, or people who required simple language texts. Likewise, Skype video meetings would be great

for Deaf people, but not so much for those with vision disabilities.

CAD-ASC surveyed our partners as to what options they preferred:

- Using one format with everyone participating and being provided with supportive services (e.g., teleconference with interpreters and intervenors),
- Separate mini-discussions based on preferred media (a Skype video meeting for Sign language users, or a teleconference for those who prefer voice interaction), or
- Doing all of our consultation via emails, and assigning someone to ensure the messages are summarized in simple language.

Based on the feedback received from our partners, it was established that the best way to conduct consultations and meet everyone's time and accessibility needs was to communicate via email. Subsequently, the lion's share of the communication was conducted that way, with some discussions taking place on the phone.

### **CCD, CRPD Meetings**

The Council of Canadians with Disabilities (CCD) Strategic Planning Meeting took place on November 30, 2016, and the CRPD meeting took place on December 1, 2016, both in Ottawa. CAD-ASC, as a member organization of the CCD, shared our ideas regarding the CCD's future, its

goals and long-term planning. We were able to use the occasion to meet with some of our project partners and receive direct feedback from them regarding our work. Frank Folino, CAD-ASC President, participated in the CRPD meeting and generously assisted our project personnel in learning more about the CRPD.

### **First Year Project Evaluation Survey**

All but one of our partners stated that the mission and goals of our project are clear and understandable. Every participant confirmed the total accessibility of our approach and of our information. All but one respondent believed that we are on the right track (the exception stated that they were not clear where our track was leading, not that they believed we are on the wrong track). Approximately 65% of participants were satisfied with the frequency and quality of interaction between CAD-ASC and their organizations. One of the participants who responded negatively on this question noted, however, that the Project Director "has been responsive and keeping us up to date on progress." All but one participant rated the Project Director's performance as "excellent", the exception graded it as "fair" due to the lack of "time-line clarity" and ambiguity as to whether CAD-ASC wanted responses from the organization or from its individual members.

---

**Title II of the ADA prohibits discrimination against qualified individuals with disabilities and Deaf individuals in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments.**

---



# INTERNATIONAL LEGISLATION

---

The United Nations brings together the countries of the world to keep peace and to work together to help people, to eliminate poverty and disease, and to encourage respect for rights and freedoms. These goals are shared by many countries throughout the world, with the United States, the United Kingdom, Australia and New Zealand playing a leading role.

Like Canada, these states aim to respect the dignity of the people with disabilities and Deaf people, to protect and promote their rights, and to guarantee their full and equal enjoyment of all human rights and freedoms. The following information explains the legal steps some of the other countries have taken to advance the rights of the disabled and Deaf communities in their societies.

## The United States

**The Americans with Disabilities Act (ADA)** became law in 1990. It is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

The purpose of the law is to make sure that people with disabilities and Deaf people have the same rights and opportunities as everyone else. It guarantees equal opportunity for individuals with disabilities and Deaf people in public accommodations, employment, transportation, state and local government services, and telecommunications.

The ADA is divided into five titles (or sections) that relate to different areas of public life.

- 1. Employment:** This section is designed to help people with disabilities and Deaf people access the same employment opportunities and benefits available to people without disabilities. Employers must provide reasonable accommodations to qualified applicants or employees. A reasonable accommodation is any modification or adjustment to a job or the work environment that will enable an applicant or employee with a disability to participate in the application process or to perform essential job functions.
- 2. Nondiscrimination on the Basis of Disability in State and Local Government Services:** Title II of

the ADA prohibits discrimination against qualified individuals with disabilities and Deaf individuals in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments.

- 3. Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities:** This title prohibits private places of public accommodation from discriminating against individuals with disabilities and Deaf individuals. It also sets the minimum standards for accessibility for alterations and new construction of facilities. It requires public accommodations to remove barriers in existing buildings where it is easy to do so without much difficulty or expense.
- 4. Telecommunications:** This title requires telephone and Internet companies to provide a nationwide system of interstate and intrastate telecommunications relay services that allows individuals with hearing and speech disabilities to communicate over the telephone. This title also requires closed captioning of federally funded public service announcements.

- 5. Miscellaneous Provisions:** The final title contains a variety of provisions relating to the ADA as a whole, including its relationship to other laws, state immunity, its impact on insurance providers and benefits, prohibition against retaliation and coercion, illegal use of drugs, and attorney's fees. This title also provides a list of certain conditions that are not to be considered as disabilities.

---

## The United Kingdom

**The Equality Act was adopted in 2010. It protects people from discrimination because of certain 'protected characteristics'. It also promotes equality of opportunity to prevent discrimination arising. The nine protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation.**

---

The Act protects against discrimination, harassment and victimization, expressed in six forms:

- 1. Direct discrimination:** When a person is treated worse than someone who isn't disabled.
- 2. Discrimination arising from disability:** When you're treated less favorably because of something connected with your disability (rather than the disability itself).
- 3. Indirect discrimination:** When a rule, policy or practice is applied to everyone, but it has a particular disadvantage for disabled people.
- 4. Employer and service providers' obligations:** Requires employers and service providers to make reasonable accommodation for the disabled people.
- 5. Harassment related to disability:** Prohibits unwanted behavior that has the purpose or effect of violating your dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.
- 6. Victimization:** When you're treated badly because you've made or supported a complaint under the Equality Act.

## Australia and New Zealand

In Australia, the *Disability Discrimination Act 1992* protects individuals across the country from unfair treatment in many parts of public life. The Act makes disability discrimination unlawful and promotes equal rights, equal opportunity and equal access for people with disabilities and Deaf people.

In New Zealand, there are two pieces of legislation that promote and protect rights of the disabled people and Deaf people: one is the Human Rights Act 1993, and the other is the New Zealand Bill of Rights Act 1990.

These documents share a number of similarities. For instance, the Australian Act makes it unlawful to discriminate against someone with disability in the following areas of life:

- 1. Employment (Section 15):** For example, when someone is trying to obtain a position, equal pay or a promotion.
- 2. Education (Section 22):** For example, when enrolling in a school, TAFE, university or other colleges.
- 3. Access to premises used by the public (Section 23):** For example, using libraries, places of worship, government offices, hospitals,

restaurants, shops, or other premises used by the public.

- 4. Provision of goods, services and facilities (Section 24):** For example, when a person requires goods or services from shops, pubs and places of entertainment, cafes, video shops, banks, lawyers, government departments, doctors, or hospitals.
- 5. Accommodation (Section 25):** For example, when renting or trying to rent a room in a boarding house, a flat, unit or house.
- 6. Buying land (Section 26):** For example, buying a house, a place for a group of people, or drop-in centre.
- 7. Activities of clubs and associations (Section 27):** For example, wanting to enter or join a registered club or when a person is already a member.
- 8. Sport (Section 28):** For example, when wanting to play, or playing a sport.
- 9. Administration of Commonwealth Government laws and programs (Section 29):** For example, when seeking information.

In New Zealand, people with disabilities and Deaf people have the right to:

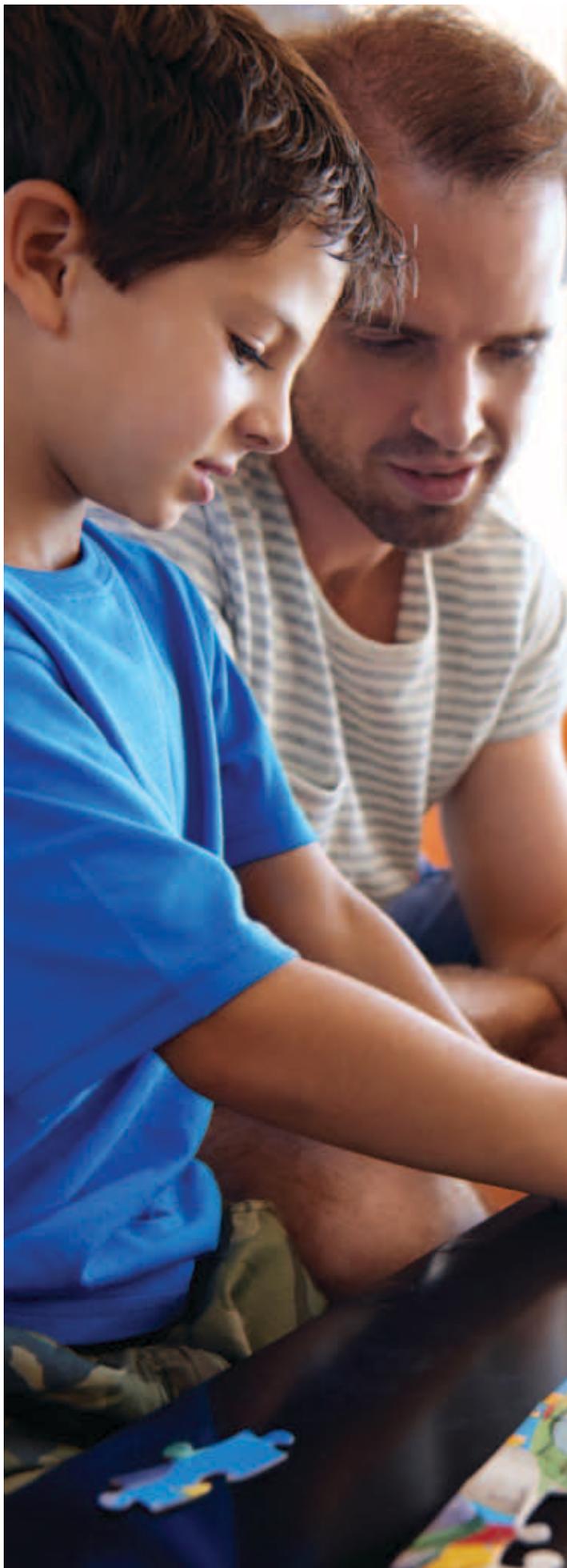
- 1.** The equal enjoyment of civil, political, economic, social, and cultural rights
- 2.** Education and the ability to access information.
- 3.** Choose where to live and who to live with.
- 4.** Use one's own language including NZSL

---

**Deaf New Zealanders access to their own language is central to health, education and justice outcomes. New Zealand Sign Language is one of our three official languages and as such, you have a legal right to speak NZSL in legal and official proceedings.**

---

- 5.** Be treated with respect, dignity and equity.



---

The goal of the legislation is to increase the inclusion and participation of disabled Canadians and Deaf Canadians in society. It also aims to promote equality of opportunity by removing barriers and improving accessibility.

---



# SUMMARY

---

## Federal Discussion Guide: What does an accessible Canada mean to you?

### The goal

The goal of the legislation is to increase the inclusion and participation of disabled Canadians and Deaf Canadians in society. It also aims to promote equality of opportunity by removing barriers and improving accessibility.

### The format

When the government adopts a law or regulations, it can take two different forms:

- **Prescriptive approach:**  
The government sets out specific rules leading to what the government believes would be the best results. Example: “The rule is that all buildings must have visual and audible fire alarms.”  
The best result of this rule is that all people will be alerted by the alarm if a fire breaks out.
- **Outcome-based approach:** Instead of setting out precise rules, the government sets out objectives, and lets people decide how to achieve those objectives. Example: “The objective is to make sure all people will be safely alerted if a fire breaks out.” In one building, they

decide to install visual and audible fire alarms; but in another building, they decide to appoint someone to make sure everyone gets out of the building when a fire starts.

### The targets

Federal accessibility legislation does not cover all institutions. It would only apply to those areas that fall under federal jurisdiction. These areas are: Parliament, federal departments and agencies, Crown corporations, federally-regulated businesses and industries, federal courts, Armed Forces, RCMP, federal lands, and private companies that wish to do business with the federal government.

Things that are under provincial or municipal jurisdiction will not be covered by federal legislation. City buses, traffic signals, private housing, and restaurants will not be covered because they are not under federal jurisdiction.

### The barriers and issues

Which barriers and issues should the legislation address?

The government identified several barriers in different areas where legislation can apply:

- the built environment;
- employment

- program and service delivery;
- transportation
- goods and services;
- information and communications

## Compliance

This new legislation will likely explain how compliance (implementation) will be monitored. Some ways to do this could be the following:

- **Action plans:** Organizations would have to file action plans explaining how they will improve accessibility for disabled people and Deaf people;
- **Progress reports:** Organizations would have to submit reports about their progress in improving their accessibility;
- **Reviews and audits:** the federal government could inspect (audit) the progress an organization is making towards improving its accessibility;
- **Complaints mechanisms:** The government might decide not to monitor or enforce the accessibility legislation, and instead a person would have to file a complaint. This is the same way human rights are enforced now: you have to file a complaint with the Canadian Human Rights Commission to get your human rights implemented.

Once a complaint has been filed, there are several ways to

enforce the legislation:

- An informal or formal mediation process;
- Public reporting of organizations who don't comply with the accessibility legislation;
- Orders to fix an issue and a timeframe to comply with the rules;
- Financial penalties.

## Support

The legislation could involve measures to encourage organizations to improve accessibility and remove barriers, such as:

- **Rules relaxation:** Fewer reports, more public recognition and promotion, or more financial rewards for those organizations that show accessibility leadership;
- **Federal oversight:** The creation of a federal Centre to provide information and tools to help organizations remove accessibility barriers;
- **Financial support** for doing research and having best practices on accessibility and barrier removal

## Effectiveness

How can the government know if this legislation is effective in removing barriers and improving accessibility? How often should the government report to Canadians on the progress of accessibility? How often should the legislation itself be reviewed?

# PART II: BACKGROUND PAPERS

---

## Introduction

Welcome to our collection of background papers. One of the main purposes of our shared project is to work together to come up with practical recommendations, “real life” solutions and sound advice to help the federal government improve its future accessibility legislation for our common benefit.

To come up with those recommendations, we should all make sure that we are well-aware of the most pressing issues of the day. We should also be familiar with the current federal legislation on certain topics, their pros and cons, as well as what researchers in the community think about it. That is why these background papers have been written: to give all of us a summary of various issues that should be addressed by the upcoming federal accessibility legislation.

Our papers have a simple structure. There are 10 different topics: employment, poverty, legal rights and justice, language rights, immigration, healthcare, education, technology, human rights, transportation.

Each of these topics is covered in a separate background paper.

Each paper has 4 sections:

- 1.** Current federal legislation;
- 2.** What the UN Convention on the Rights of Persons with Disabilities says about it;
- 3.** Strengths and weaknesses of the current situation in Canada regarding that topic;
- 4.** Possible recommendations.

These 10 topics don’t cover all the issues that are important for Canadians with communication disabilities and language differences. This is why we invite you to share other concerns and ideas for the proposed legislation. Please feel free to add your own suggestions and corrections. The closer we work together, the better it is.

To help the government adopt policies that benefit us directly, it is especially important to hear your personal views on the concerns that we reflected in the background papers. This project is centered around communication issues that include intellectual, literacy, language and mental health disabilities and differences. Bringing your own personal “communications lens” to explore

these issues will be incredibly helpful for all of us.

Therefore, we would be very happy if you could help us by voicing your thoughts about the topics mentioned in these background papers. Perhaps you think that transport carriers such as trains and airplanes discriminate against you by refusing to allow anyone with a language difference or a mental disability to sit near the emergency issues? Or, you are worried that federal social assistance application forms are visually difficult to navigate, and the government uses complicated language that you find hard to understand? Perhaps, you're frustrated that government documents online don't include audio and Sign language versions? Maybe the federal government doesn't put enough pressure on businesses to make their services friendlier to customers with disabilities and Deaf customers?

There are no limits to how many concerns you can voice: every small detail matters, and every little proposal is important.

## **Employment for Canadians with Disabilities: A Background Overview**

### **Current legislation**

The 1986 (later amended in 1995) Employment Equity Act protects

PWD and Deaf people from discrimination. Together with the Federal Contractors Program and the Legislated Employment Equity Program, these policies promote equitable representation for women, Aboriginal peoples, persons with disabilities, Deaf persons and members of visible minorities.

The Act demands employment equity. Equity means "more than treating persons the same way - it also requires special measures and the accommodation of differences." The Act requires that employers remove barriers to employment that disadvantage workers with disabilities or deafness. It also requires employers to provide "reasonable accommodations" for PWD and Deaf people and to establish positive policies to hire, train and promote them.

The Act applies to industries regulated by the federal government (banks, railroads, airlines, broadcasters, etc.), Crown Corporations, corporations controlled by two or more provincial governments, and private businesses that work with the federal government.

Also, the federal government has two programs specifically designed to improve the employment situation in the disabled and Deaf communities.

The first one is the Opportunities Fund for Persons with Disabilities. It provides funding for national, regional and local projects that assist unemployed people with disabilities. It helps them to prepare for and to find employment or become self-employed. It also aims to help them acquire the skills necessary to maintain that new employment – it provides support to help persons with disabilities create jobs by starting a business.

It gives financial support to employers to encourage them to hire PWD and Deaf persons whom they would not normally hire. Also, funding can be provided for employer awareness projects to raise the profile of persons with disabilities and Deaf persons within the employer community. It encourages highlighting their capabilities and skills.

The second one is the Canada Pension Plan Disability Vocational Rehabilitation Program. It offers vocational counseling, financial support for training, and job search services to recipients of Canada Pension Plan (CPP) Disability Benefits to help them return to work.

It involves:

- **Employment counseling and guidance:** You can get one-on-one guidance from a specialist;

- **Planning your return to work:** Together with you, your doctor and Service Canada, a specialist will discuss your own plan to help you get to work;
- **Improving your skills:** The program can offer you get a better or extra education, or re-training;
- **Job search:** A specialist will help you find a job.

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The Convention's positions on employment and work are in Articles 26 and 27.

Article 26 states that habilitation and rehabilitation services and programs, including employment, must be provided to persons with disabilities as early as possible, and as close to their communities as possible.

Article 27 explains that it is forbidden to discriminate against people with disabilities in employment, including hiring, working conditions, pay, union rights, training, self-employment, and support programs.

### **Strengths and weaknesses of the current situation in Canada**

According to Statistics Canada, an estimated 3.8 million adult Canadians reported being limited in their daily activities due to a disability in 2012.

This represents 13.7% of the adult population. The employment rate of Canadians aged 25 to 64 with disabilities was 49% in 2011, compared with 79% for Canadians without a disability. Among those with a 'very severe' disability, the employment rate was 26%

---

**Education helps to reduce that gap in employment. It reduces the differences between persons with a mild or moderate disability and those without a disability. Among university graduates, persons with a mild or moderate disability had employment rates that are about the same as those of university graduates without a disability.**

---

#### **Possible policy recommendations**

There are several practical recommendations on how to improve the disability employment situation.

For instance, Dr. Pence of the University of Victoria outlined a few solutions:

- 1.** Increased employment opportunities and work experiences for post-secondary students with disabilities: it can be reached by additional governmental investments through Labour Market Agreement for Persons with Disabilities for people with ages 18-30.
- 2.** Encouragement of workplace accommodations: Workplace Tax Credits, workplace accessibility funding, work hours' modifications. The federal government should lead by example.
- 3.** Increase post-secondary education rates of people with disabilities: develop programs and activities tailored for the needs of such people.
- 4.** Promote self-employment and business development for entrepreneurs with disabilities: extend the existing programs and invest more resources.
- 5.** Expand employment incentives in national disability-related income programs: increase Pension Plan disability exemptions and benefits.

James Roots and David Kerr of the Canadian Association of the Deaf proposed a similar set of actions to resolve the unemployment problem:

1. Strengthening both federal and provincial employment equity legislation, to follow the rules of the United Nations Convention on the Rights of Persons with Disabilities;
2. Aggressive information campaigns to eliminate business concerns about the cost of accommodation;
3. Funding for the disabled communities – especially the organizations and businesses run and controlled by the disabled Canadians – to enable it to employ, train, and promote disabled workers;
4. A fair and committed partnership between governments and disabled organizations to work together to help disabled Canadians become more employable, and especially to move more of them into professional and executive positions.
5. Federal and provincial employment programs must move their emphasis away from creating training opportunities and towards creating job opportunities instead.
6. The federal government must set an example by drastically increasing the percentage of its own workforce who are disabled people, especially at the executive and policy levels.
7. Disabled people must be put in control of their own institutions,

including the schools and service agencies for the disabled people

## Poverty and Disability in Canada: A Background Overview

### Current legislation

The federal government enacted several measures to reduce the poverty and increase income security needs of disabled and Deaf Canadians. It has been done through:

- Employment Insurance (provides Regular Benefits to individuals who lose their jobs through no fault of their own (for example, due to shortage of work, seasonal or mass lay-offs) and are available for and able to work, but can't find a job);
- CPP/QPP (earnings-related social insurance program);
- Old Age Security (monthly social security payment available to most people 65 years of age or older with individual income less than \$114,815);
- Guaranteed Income Supplement (gives a monthly non-taxable benefit to Old Age Security pension recipients who have a low income and are living in Canada);
- Income Assistance measures (general social assistance programs);

- The National Child Benefit;
- Child Disability Benefit;
- Disability tax credit (tax credits and deductions).

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The Convention's positions on poverty reduction are written in the Article 28.

It says that persons with disabilities have an equal right to necessary standards of living, such as food, clothing, housing, water, social protection, poverty reduction programs, and retirement benefits

### **Strengths and weaknesses of the current situation in Canada**

According to the 2014 Globe and Mail report, most Canadians with disabilities live at or below the poverty line. Approximately one in seven people have a disability and some of those people earn less than \$21,000 per year.

The term "poverty" means that people spend approximately 60 per cent of their income on food, shelter and clothing. With an income below or at the poverty line, there is no room in the budget to invest in quality of life, savings, transportation and educational opportunities.

"Canada Without Poverty" says 1 in 7 people in Canada live in poverty.

Disabled citizens are twice as likely to live below the poverty line than their non-disabled counterparts. Nearly 15% of people with disabilities live in poverty, 59% of which are women. In addition, 45% of all homeless people are disabled citizens.

The 2009 report by the Council of Canadians with Disabilities (CCD) has shown that the poverty rates are much higher for persons with disabilities up to the typical age of retirement (65 years). In addition, type of disability matters. People with disabilities in the areas of communication and cognition or psychological well-being are much more likely to be living in poverty.

### **Possible policy recommendations**

There are several various proposals to address the problem of poverty among Canadians with disabilities and Deaf Canadians.

The Caledon Institute proposed that the federal government should invest in a new initiative called "the Basic Income Program." Its purpose is to best provide the support that Canadians with disabilities and Deaf Canadians need.

Canadian Centre for Policy Alternatives described a vision of a widely-discussed guaranteed income to reduce the poverty levels among these communities. It is a form of a welfare payment in which the

---

**“Canada Without Poverty” says 1 in 7 people in Canada live in poverty. Disabled citizens are twice as likely to live below the poverty line than their non-disabled counterparts. Nearly 15% of people with disabilities live in poverty, 59% of which are women. In addition, 45% of all homeless people are disabled citizens.**

---



state regularly provides a minimum level of basic income to every adult. These payments are made regardless of a person's economic circumstances or need, and there are no or very few conditions.

While these plans may be too far-fetched at this moment, the Centre also offered a few more politically achievable solutions:

- **Improved social assistance:** More investments in education, health care, child care to prevent poverty in the first place. It would give people a strong initial ground to firmly stand on;
- **Labour market reform:** Higher minimum wage, flexible hours of work, better paid parental and maternity leave support;
- **Universal and affordable childhood education and childcare:** It would benefit women's equality and will enable many of the poor people to leave their poverty behind.

Every Canadian Counts offered its own economic vision of improving the situation, such as:

- **A national disability program:** The creation of a new separate national program designed to meet the needs of Canadians with disabilities and Deaf Canadians. This program would introduce new financial

resources coming from the federal government to help every province and territory to provide better services;

- **Disability information sharing:** A separate national program would allow provinces to share and coordinate their efforts about policies and delivery methods;
- **National data collection system:** It could provide a clear picture of provincial/territorial performance. It would allow the federal and provincial programs to direct resources to identified areas of need.

Tony Dolan, chairman of the Council of Canadians with Disabilities, summed up three central solutions to improve the situation:

- **The need to create new initiatives to address poverty,** including improving the Registered Disability Savings Plan and Canada Pension Plan Disability Benefit. That means removing barriers for those with intellectual disability wishing to open RSDP Plans, expanding the Disability Tax Credit Definition and making the CPPD benefit non-taxable.
- **New initiatives to improve employment access.** It includes setting specific targets for the employment of PWD and Deaf persons in Labour Market Agreements with the provinces

and expanding EI Sick Benefits.

- **New initiatives to improve access**, including the regulation of new information technologies to ensure it, and the creation of a Centre of Excellence that would provide best practice information to employers, businesses, etc. on innovative universal design options.

## **Legal Protection and Access to Justice for the Disabled Canadians: A Background Overview**

### **Current legislation**

A need for disability accommodations in courts for people who are deaf was first acknowledged in 1982 by s. 14 of the Charter of Rights and Freedoms. The Criminal Code now also allows “testimonial aids” for victims and other witnesses with various disabilities.

While the United States has the *Americans with Disabilities Act of 1990*, Canada does not have the same law on the federal level. The *Globe and Mail* noted that “there is no real Canadian equivalent to the ADA, many people instead refer to a *patchwork* of confusing disability policies and regulations.” Many civil rights and disability organizations urge the political parties to pass a strong and effective Canadians with Disabilities Act.

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The Convention’s general principles and obligations offer theoretical and legal support for accommodating disabilities in courts and other parts of the justice system.

The Convention also confirms the equal right of persons with disabilities to the many legal rights covered by the International Covenant on Civil and Political Rights and other treaties.

The Convention’s position on the rights to justice of PWD and Deaf people is marked in Articles 12 and 13.

**Article 12** focuses on legal business and legal rights. It states that we all have the right to equality in law courts and legal business. We also have the right to be provided with the support services we need to participate fully in legal business. In addition, we have equal rights to own and inherit property, control our own financial affairs, and access financial credit such as bank loans and mortgages. The government must protect our legal rights.

**Article 13** focuses on legal proceedings such as police investigations, going to court, or going to prison. In all legal proceedings, PWD and Deaf people still have the right to equal access and support services. Police

and prison staff need to be given special training about disabilities and language differences.

### **Strengths and weaknesses of the current situation in Canada**

According to Statistics Canada, single parents, recent immigrants, people with disabilities, seniors and Aboriginal peoples are more likely than other groups to be poor. The access to justice crisis disproportionately impacts those who need our support the most

As noted by Alberta Law Libraries Network, PWD and Deaf persons in particular may experience barriers to full and equal access to justice. Organizations such as Reach Canada and the ARCH Disability Law Centre provide resources to educate lawyers, judges and legal system practitioners to improve that system and make it more suitable for people with disabilities and Deaf people. Materials provided by these organizations teach people in the judicial system about legal services for PWD and Deaf persons, human rights and disability law, capacity to instruct counsel, and more.

### **Possible policy recommendations**

Writing in the National Journal of Constitutional Law, David Lepofsky offers 12 practical recommendations to alleviate the existing barriers that diminish the value of the

judicial system for Canadians with disabilities and Deaf Canadians:

- 1. Acknowledge the problem and start working on the corrective plan:** coordinate activities between disability and Deaf organizations, create an overall plan for action, urge the judicial system to adopt a pro-active approach;
- 2. Create special disability training for judges:** judges should be given training in the needs of persons with disabilities and Deaf people involved in the judicial system;
- 3. Remove physical barriers to courthouse and courtroom access:** physical barriers in court facilities should be removed;
- 4. Designate court staff official as accommodation officer in each court:** each court should appoint a court staff official to be responsible for accommodating the needs of persons with disabilities and Deaf persons involved in a case;
- 5. Accommodate the needs of judges with disabilities:** work-related needs of all judges with disabilities must be met in an effective and timely fashion;
- 6. Each court should have Sign language interpretation and other support for Deaf people:** the court should not only arrange to have this kind of assistance available

where needed, but should make it known that such requests will be received and acted upon, if made in a timely fashion;

**7. Printed materials must be made available for print-handicapped court participants:**

the court should ensure that any printed material is made available to participants with disabilities or language differences in an accessible format, in a timely fashion;

**8. Plain language should be used in courts:**

it will make the proceedings more accessible to individuals with developmental disabilities;

**9. Remove legislative and other barriers to persons with disabilities and Deaf persons serving as jurors:**

the courts should take steps to ensure that persons with disabilities and Deaf persons have full opportunity to serve as jurors;

**10. Accommodations:**

judges should always ask a PWD and a Deaf person involved in a court proceeding if they need any assistance. It is necessary to ensure their full participation in court matters;

**11. Terminology and vocabulary learning:**

a judge should be aware of, and feel entirely comfortable in asking a person with a

disability and a Deaf persons what terminology is considered the most appropriate;

**12. Courts should keep disability needs in mind when making legislation:**

common law and constitutional decisions must consider needs, desires and wishes of the disabled and Deaf communities.

One of the most serious accessibility barriers to the justice system is lack of funding.

Most Canadians with disabilities and Deaf Canadians cannot afford legal assistance. The problem becomes especially serious if they are pursuing human rights charges. The Court Challenges Program used to provide some funding for them to pursue court interpretations of their rights. This program was cancelled by the Harper government. The current Trudeau government has pledged to revive it with new terms and funding.

This is an important step back in the right direction. At the same time, the CCP needs to have a broader mandate and a larger amount of funding than in the past. It is necessary because Canadians with disabilities and Deaf Canadians face disproportionate financial barriers in the pursuit of justice.

## Language Rights: A Background Overview

### Current legislation

For the Deaf Canadians, ASL and LSQ are not yet recognized in Canada as official languages equal to English and French on the federal level. Achieving recognition of ASL and LSQ and official status would allow access for Deaf people to their full participation as citizens of their own country. At least 50 countries in the world gave a legal protection to recognize Sign languages.

As for the Blind Canadians, Canada has ratified the Marrakesh Treaty that is designed to help the blind, visually impaired and print blind people. It helps to solve the “book famine” issue by requiring the country to adopt national laws that permit the reproduction, distribution and making available of published works in proper formats - such as Braille.

It is also important to mention the “plain language policy” adopted by the federal government. According to the Public Works and Government Services Canada (2016), such policy was adopted to convey information and communicate in a clearer and more understandable manner. Government documents, communication and paper must be written in a clear format.

However, the “plain language” policy requires at least Grade 10

literacy skills. This makes such information very difficult for Canadians with language, literacy, and intellectual disabilities to understand it. Per Employment and Social Development Canada, 48% of Canadian adults are considered to have inadequate literacy skills. As per Canadian Literacy and Learning Network, 55% of working age adults in Canada are estimated to have less than adequate health literacy skills. Shockingly, 88% of adults over the age of 65 appear to be in this situation. Less than a third of all Canadian adults has insufficient functional literacy skills.

---

**CAD-ASC uses “simple language” whenever possible. This “simple language” approach uses a Grade 3-4 literacy skill level and is therefore more accessible to all. The government should aim to use the same approach.**

---

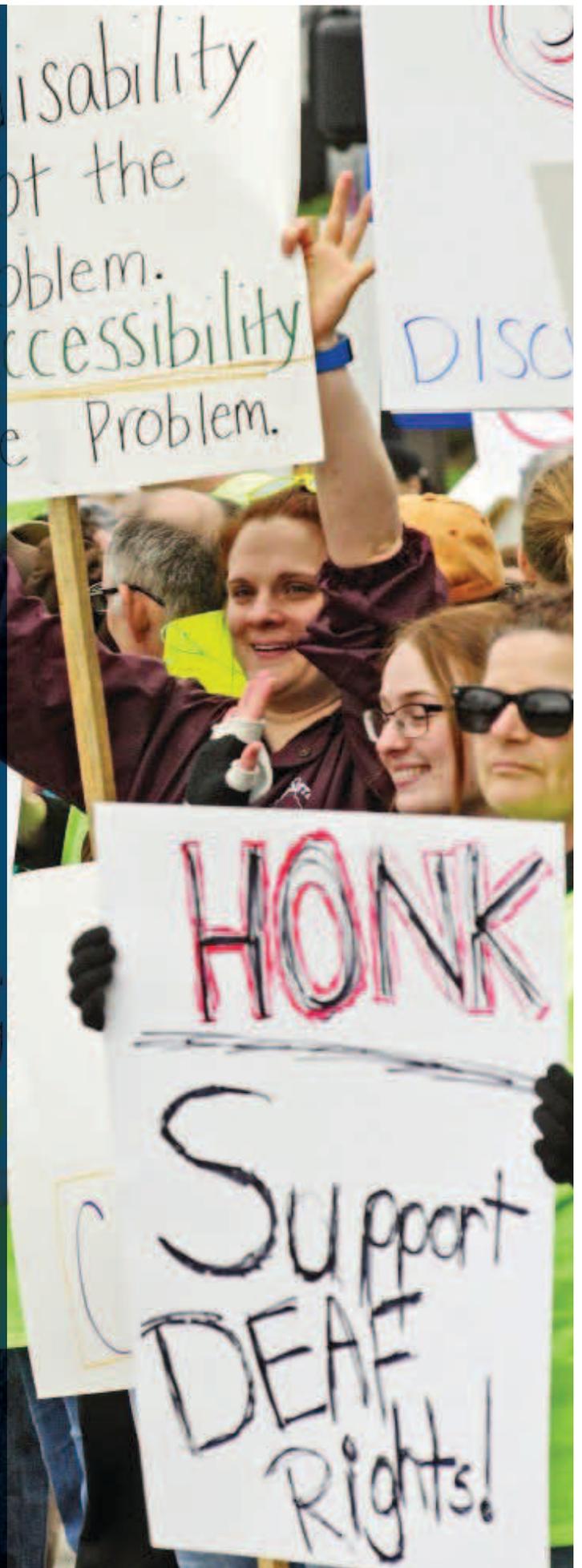
**Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The United Nations Convention

---

For the Deaf Canadians, ASL and LSQ are not yet recognized in Canada as official languages equal to English and French on the federal level. Achieving recognition of ASL and LSQ and official status would allow access for Deaf people to their full participation as citizens of their own country. At least 50 countries in the world gave a legal protection to recognize Sign languages.

---



on the Rights of Persons with Disabilities formally recognized Sign languages and confirmed these languages' rights and protections and equal status to spoken/written languages in the signatory countries, which include Canada.

The Convention's position on these issues are shown in the Article 24. It says that the government must make sure that persons with disabilities and Deaf persons have equal access to quality education with all the assistance they require. This means education at all levels: elementary, high school, university, training school, adult learning.

It also includes learning Braille, Sign language or any other form of communication a disabled person or Deaf person needs or wants. The Article 24 also states that the educational environment must support the best academic and social development of children with all disabilities and deafness. Teachers must be given appropriate training, and teachers with disabilities must be hired.

The Convention also provides a set of rules to protect the rights of Deaf people. In addition to Article 24, the need for the official recognition of Sign languages are mentioned in different articles, such as Article 2 (definition), Article 9 (accessibility), Article 21 (freedom of expression and opinion, as well as access

to information), Article 30 (full participation in the society).

### **Strengths and weaknesses of the current situation in Canada**

A number of Canadian provinces have formally recognized Sign as the language of Deaf people and/or as a language of instruction in the Deaf schools. However, the same recognition must be made on the federal level. The Sign languages of Deaf people are true languages and must be given the same status and respect as any other official language in this country.

Many organizations, including DeafBlind Ontario Services, suggested that any new legislation should specifically include clear language that seeks to remove all barriers, current or future on:

- communications (including online formats);
- transportation;
- healthcare/community support facilities;
- electoral/voting;
- security
- all areas of banking.

These concerns are going to be reviewed in the upcoming legislation. The new Minister of Sport and Persons with Disabilities is calling the new legislation the National

Accessibility Act. If passed, this Act will allow Canada to meet its obligations set out in the Convention on the Rights of People with Disabilities. It will allow the Government to take all the measures to change the existing laws and adopt new ones to benefit those with disabilities and language differences.

The new legislation would help Canada make the first North American country to recognize Sign languages on the official level. This will protect the human right of Deaf people to use their first languages in Canada – American Sign Language and la Langue Des Signes Québécoise. The official recognition of our national Sign Languages will help Deaf people better operate with the society. It will be an important step to recognize the language and culture of the Deaf community in Canada.

### **Possible policy recommendations**

The Canadian Association of the Deaf-Association des Sourds du Canada believes that the situation can be improved by adopting the following measures:

- Recognizing the right of the Deaf people to use national Sign languages (ASL and LSQ);
- Taking steps to increase the availability of all federal documents in both Braille and large print and in ASL and LSQ;

- Captioning and video accessibility such as ASL and LSQ videos on different departments website, online closed captioning on websites, Facebook and Twitter, closed captioning, ASL and LSQ interpreters in emergency situations through broadcasts;
- A better legal structure to promote and recognize certified Braille material producers, ASL-English interpreters, LSQ-French interpreters, Deaf interpreters, and other interpreters to provide communication between Deaf individuals and hearing persons;
- Adoption of “simple language” rather than “plain language” as the default federal policy on all documents, forms, announcements, and other printed matters

## **Immigration and Admissibility of People with Disabilities: A Background Overview**

### **Current legislation**

The 1976 Immigration Act, replaced by the Immigration and Refugee Protection Act in 2001, gives the federal government the legal authority to regulate immigration to Canada. It requires this country to reject applications for immigration from persons with disabilities because of the wrong perception that they might be too much of a burden on a society.

This approach is based on the “excessive demand clause”, Section 1 of the Immigration and Refugee Protection Regulations (IRPR).

Specifically, the Act doesn’t allow a person with any “disease, disorder, disability or other health impairment” which may cause them to be “a danger to public health or public safety” or which may reasonably be expected to place “excessive demands on health or social services.”

Many disability and Deaf organizations believe that this provision of the Immigration Act discriminates against persons with disabilities and Deaf persons. In addition, it does not meet the equality guarantees of the Charter – this applies to families who already have members living in Canada and who want to bring in their other family members.

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The United Nations Convention on the Rights of Persons with Disabilities explicitly forbids discrimination against immigration applicants because of their disability. This position is expressed in the Article 18, Article 21 and Article 22.

Sections 6 and 15 of the Charter guarantee the rights of persons with disabilities to liberty of movement and

freedom to choose their residence on an equal basis with others.

Article 18 explains that disability cannot be used as a reason for refusing to allow people to obtain proof of their nationality (passport, for example), to emigrate and immigrate and to re-enter their country.

Article 21 says that people with disabilities and Deaf people should have the right to request and have access to information in a proper format when dealing with the government business. For example, if a Blind person wants to immigrate to Canada, the government must be able to provide all the relevant information in Braille.

Article 22 requires the government to protect people with disabilities against interference with their personal information, privacy, home, good name and communications

### **Strengths and weaknesses of the current situation in Canada**

Canada has signed the UN Convention on the Rights of Persons with Disabilities. This country is bound to fight any signs of policy discrimination. Yet, Canada Immigration rules and the “disability clause” remain openly discriminatory against PWD and Deaf persons.

Therefore, many disability organizations, including the CAD-

ASC, the CCD and the Alliance for Equality of Blind Canadians believe that the Immigration Act does not meet the equality guarantees of the Charter. CAD-ASC noted that the disabled person's application is assessed solely based on his/her disability by immigration officials who have absolutely no competence to evaluate him/her as a PWD or Deaf person. This is completely unacceptable.

In February of 2005, the Supreme Court of Canada issued a joint ruling in *Hilewitz v. Minister of Citizenship and Immigration* and *de Jong v. Minister of Citizenship and Immigration* that essentially upheld the "disability clause". Such an approach enables a long-held stereotypical view of persons with disabilities and Deaf persons as being less deserving and a burden on society.

The current law demeans and belittles Canadians, as well as prospective immigrants with disabilities, and does nothing to recognize the contribution such PWD and Deaf persons and their families can and do make to Canadian society.

### **Possible policy recommendations**

Many disability and Deaf organizations call upon the Government of Canada to undertake a review of the "excessive demand"

and the de-facto "disability clause" and modify the immigration rules.

This review should keep in mind the discriminatory immigration rules against PWD and Deaf Canadians and immigrants. This blatant, inhumane, and legally sanctioned discrimination practice has no place in our time.

## **Health Care and Disability: A Background Overview**

### **Current legislation**

Canada has a national healthcare program composed of thirteen provincial and territorial health insurance plans. They operate under the Canada Health Act and are governed by the Canadian Health Care System.

Federal and Provincial-Territorial Governments share the responsibilities and roles for Canada's health care system. Provinces must meet a lot of conditions to receive funding (Canada Health Transfer) from the federal government. Provincial and territorial governments bear the responsibility for organizing, delivering and managing health services provided to all their residents.

The 1997 Eldridge Case by the Supreme Court plays an important role in Deaf and disability rights. The Supreme Court ruled that Sign-language interpreters must

be provided in provincial hospitals in order to comply with equality rights guarantees in section 15(1) of the Canadian Charter of Rights and Freedoms. It was also established that all federal health care funding recipients must make their services accessible to PWD and Deaf people

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The right of PWD and Deaf people to health care is outlined in the Article 25. It says that the people with disabilities have the right to equal quality and kinds of health services, including early intervention, sexual health, and health insurance.

Health professionals must provide equal quality of health care. Health care workers must receive training about the human rights, dignity, independence, and needs of persons with disabilities.

### **Strengths and weaknesses of the current situation in Canada**

The difficulties that all Canadians have to deal with in finding a family physician are much more serious for people with disabilities and Deaf people. According to the Canadian Disability Policy Alliance, Canadians with disabilities and Deaf Canadians have less access to healthcare. There are 4 groups of barriers that

people with disabilities and Deaf people in Canada face:

- 1. Physical barriers:** inaccessible entrances to doctors' office, inaccessible examining areas, lack of transportation to appointments; inaccessible office space, examining equipment and washing rooms.
- 2. Barriers created by attitude:** negative perceptions about disability and deafness that influence the health care quality. Lack of willingness to accommodate the needs of the patients with disabilities or deafness, and lack of respect for their human rights.
- 3. Expertise barriers:** lack of understanding of disability and deafness, and of the health issues and complications that come with it. Often, doctors over-attribute health problems to the patients' disability or deafness. Similarly, they often under-attribute health problems for the same reason. In general, doctors must do a better job understanding disability-related and non-disability-related health problems.
- 4. Systemic barriers:** people with disabilities and Deaf people find they cannot get insurance to cover costs for physiotherapy, medical equipment and mental health services. Deaf Canadians

and Canadians with disabilities have longer waiting times, and they have more difficulties getting an appointment.

- 5. Financial barriers:** costs of transportation to appointments. Costs of supports are often too high and they are not always refundable. For example, the costs of hearing aids for hard of hearing Canadians can be too expensive to afford. When the government provides financial help, it is never enough, it is not always refundable and it does not cover both hearing aids in some cases).

### Possible policy recommendations

- 1. Updated rules:** review intake procedures to ensure that disability and language difference is identified and prioritized among registered patients;
- 2. Physical accessibility:** ensure that all medical practices are at least physically accessible;
- 3. Federal oversight:** establish a new department that would assist with placing disabled patients with family physicians in their regions. Encourage the physicians to take more disabled patients in their care.
- 4. Raising awareness:** better inform the public and people with disabilities or language

differences about the availability of doctors in their vicinity.

- 5. Better funding:** provide either direct transportation services to the disabled patients or cover their costs.

## Education and Disability: A Background Overview

### Current legislation

On the federal level, the rights of Canadians with disabilities and Deaf Canadians to an accessible education without discrimination are reflected in 2 documents:

- Canadian Charter of Rights and Freedoms, 1982 (Section 15);
- The Canadian Human Rights Act, 1977 (prohibits discrimination based upon physical or mental disability).

In the United States, there are more federal laws regulating education than there are in Canada. The Individuals with Disabilities Education Act (IDEA), along with other legislation such as the Americans with Disabilities Act (ADA), and the Rehabilitation Act (Section 504), form a national US strategy aimed to increase access to assistive technology in education.

In Canada, the provinces and territories control the delivery of educational services. The provinces also establish their own systems. There is no pan-Canadian centralized

educational strategy on how to deliver assistive technology for special needs students.

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

Canada was one of the original signatories to the United Nations Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The UN Convention recognizes the right of Deaf people to equal access to education, and upholds their right to be educated in Sign language. The Convention also supports the specialized schools (for example, Deaf schools) and it supports inclusive education at the same time.

This position is reflected in the Article 24. Article 24 says that governments must make sure that persons with disabilities and Deaf persons have equal access to quality, free education with the support and assistance that they need. This means education at all levels: elementary, high school, university, training school, adult learning.

It also includes learning Braille, Sign language, and any other form of communication that the person needs or wants. The educational facilities must support and enable the best academic and social development of children with disabilities. Teachers must be given

appropriate training, and teachers with disabilities must be hired.

### **Strengths and weaknesses of the current situation in Canada**

The most frustrating fact is that Canada lacks a centralized federal system that would regulate educational concerns of Deaf Canadians and Canadians with disabilities. These rules are set by the provinces. However, the federal government does offer a range of programs to help them to get a better education:

- 1. Grant for Students with Permanent Disabilities:** With this grant, students with permanent disabilities can receive \$2,000 per academic year to help cover the costs of accommodation, tuition, and books.
- 2. Grant for Services and Equipment for Students with Permanent Disabilities:** This grant provides up to \$8,000 in assistance per academic year for students with permanent disabilities who need exceptional education-related services or equipment. It can be tutors, note-takers, interpreters, braille or technical aids.
- 3. Canada Student Loans Program - Permanent Disability Benefit:** This benefit gives people with disabilities and Deaf people means to repay their student loans.

- 4. Opportunities Fund for Persons with Disabilities:** This benefit gives funding for national, regional and local projects that assist people with disabilities and Deaf people to find a job, become self-employed or get necessary working skills.
- 5. Canada Pension Plan Disability Vocational Rehabilitation Program:** This program offers vocational counselling, financial support for training, and job search services to recipients of Canada Pension Plan (CPP) Disability Benefits to help them return to work.
- 6. Literature for the Blind:** This service allows visually impaired persons to send items they use for free.
- 7. Employment and Social Development Canada:** This department offers several employment programs to help unemployed and underemployed Canadians, including those with disabilities or language differences.
- 8. Lifelong Learning Plan (LLP):** This plan allows a person to withdraw funds from their registered retirement savings plans to finance training or education. It can be done for themselves or their spouse or common-law partner.

On the other hand, there are

also some concerns about the educational system in Canada:

- 1. Lack of Individualization:** the schools do not always provide the “most enabling environment” for students with disabilities and Deaf students. Often, schools cannot give these students enough special attention and communication because of the number of students in class and because of the curriculum’s structure.
- 2. Accommodation Process:** Tutoring in ASL/LSQ is never provided for the deaf students. Special education programs, support and services are often confusing and time-consuming. The right to privacy is not always respected.
- 3. Inadequate funding:** the funding structure is overly-complicated, setting many restrictions and rules that make it difficult to get proper assistance. Very often, funding is given to accommodate the budgetary rules and not the needs of Deaf students and students with disabilities.
- 4. Physical Inaccessibility:** lack of ramps, elevators, easy-to-open doors, accessible washrooms and home-to-school transportation raise concerns about the rights of students with disabilities.
- 5. Ineffective Conflict Resolution Mechanisms:** if a Deaf student or

student with a disability decides to address his concerns in the Human Rights Commission or in a court, the process is often too long, complicated, expensive and stressful.

---

## **Negative Attitudes and Stereotypes: students with disabilities and Deaf students often face negative attitudes and stereotypes in the education system. Educators, staff and students can make it difficult for them to access educational services equally because of the lack of sensitivity training and awareness.**

---

### **Possible policy recommendations**

- 1. Promoting public understanding and awareness:** students and teachers alike should be aware of the needs of students with disabilities and Deaf students, and the government should

encourage the efforts to change any negative perceptions;

- 2. Increased funding:** the federal government should create a centralized system to provide additional funds to meet the needs of the special students, both technical and educational;
- 3. Developing educational tools:** the special needs of every student with a disability and Deaf student are different. Schools and educational facilities should work to make their programs more individualized and less generic.
- 4. Enforcing the law:** the law requires educational facilities to provide equal services and proper accommodation to students with disabilities and Deaf students. It should be strictly enforced, with corrections being made promptly and without being stressful for the student.
- 5. A separate government agency:** to make sure the needs of students with disabilities and Deaf students are met.

## **Technology and Communications: A Background Overview**

### **Current legislation**

The Canadian government is required to provide accessible information

that meets the needs of PWD and Deaf people. These obligations are expressed in three documents:

- The Convention on the Rights of Persons with Disabilities;
- The Canadian Charter of Rights and Freedoms;
- The Canadian Human Rights Act;
- The Telecommunications Act. The Canadian Radio-Television and Telecommunications Commission (CRTC) serves as a regulatory body for broadcastings and telecommunications.

These legal documents require the Government of Canada to deliver accessible web information that is inclusive of the needs of PWD and Deaf persons.

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The Convention's positions on the use and promotion of accessible technology are shown in Article 4, Article 9, Article 21 and Article 29.

Article 4 obliges the government to provide assistive technology and cooperate with organizations of people with disabilities and Deaf people to promote it;

Article 9 says that the government must set standards and good practices for accessibility;

Article 21 explains that the government should provide information in accessible formats and technologies in a timely manner and without additional costs;

Article 29 sets it as a requirement that the government must facilitate the use of assisting technologies to ensure the full participation of Canadians with disabilities and Deaf Canadians in political and public life.

### **Strengths and weaknesses of the current situation in Canada**

New telecommunications technology must always be accessible to Canadians with disabilities and Deaf Canadians. But it can only be achieved if these citizens themselves are involved in every aspect of technology: development, regulation, and distribution.

Unfortunately, new technology continues to be developed, regulated, and distributed without any involvement of the disabled and Deaf communities. Making changes for a greater accessibility is difficult and expensive. Inclusion should begin from the start, and early involvement of Deaf, Blind and other disabled Canadians is essential.

Another concern is the quality of telecom services. The lack of consultants with disabilities and language differences prevents

businesses from enforcing high standards of service (or, in many cases, any service) for these customers. This situation is unacceptable and must change. Often, wireless services are inaccessible products. Services and prices do not acknowledge how people with disabilities and Deaf people use data, and service personnel are not aware of their own company's disability discounts.

Canada is a world leader in closed captioning services, but refuses to require it for online videos, even where it licenses the provider (for example, broadcasters). The actions must be taken to ensure that online telecommunication services also have closed captioning.

### **Possible policy recommendations**

In 2006, the Council of Canadians with Disabilities, on behalf of the Community Coalition (the Alliance for Equality of Blind Canadians, CNIB, Canadian Association of the Deaf, Canadian Hard of Hearing Association, Canadian Council of the Blind, Neil Squire Society, University of Toronto Adaptive Technology Centre, ARCH, Roeher Institute, Dis-IT, Media Access Canada), submitted a report to the Canadian Radio-Television and Telecommunications Commission.

In that document, the Coalition provided several

recommendations on how to make telecommunications and technology more assessable to Canadians with disabilities and Deaf Canadians:

- **Federal regulation:** access and equality can only be achieved through government regulation;
- **Inclusiveness:** telecommunications architecture should always strive to be as inclusive and accessibility-friendly as possible;
- **Help from corporations:** corporate public services should include and support accessibility accommodations;
- **No new barriers:** any new policies must not create new difficulties for PWD and Deaf citizens;
- **National strategy:** an all-Canadian approach must be adopted to meet the needs of Canadians with disabilities and Deaf Canadians on the national level;
- **Follow the rules:** the Canadian Radio-Television and Telecommunications Commission must ensure that its actions meet the requirements of the Charter of Rights and Freedoms and the Canadian Human Rights Act;
- **Disability consultations:** a constant involvement of the people with disabilities and Deaf people in the policy decision-making is important.

## **Human Rights, Civil Rights, Civic Participation: A Background Overview**

### **Current legislation**

The 1977 Canadian Human Rights Act prohibits discrimination against persons with disabilities when they are employed by or receive services from:

- The federal government and its regulatory agencies;
- First Nations governments;
- Private companies that are regulated by the federal government like banks, trucking companies, broadcasters and telecommunications companies;
- Crown corporations.

---

## **The Equality Rights Section (15) of the 1982 Canadian Charter of Rights and Freedoms guarantees people with disabilities and Deaf people equal benefit and protection before and under the law.**

---

It makes clear that every individual in Canada – regardless of race, religion, national or ethnic origin, colour, sex, age or physical or mental disability – is considered equal. This means that governments must not discriminate on any of these grounds in its laws or programs.

### **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

The Convention's position on human and civil rights, and civic participation are outlined in several articles. These rights include:

- the right to food, clothing and shelter;
- the right to dignity and respect;
- the right to quality education to the highest level desired;
- the right to communication and information;
- the right to the language of their choice, including Braille and Sign language;
- the right to freedom and justice;
- the right to equality and access.

Five Articles reflect these rights in particular:

Article 4 ensures that the government will support the full equal rights and freedoms of people with disabilities and Deaf people. The government must remove barriers,

stop discrimination, and provide information and assistive technology;

Article 6 and Article 7 say that women and children have equal rights and freedoms;

Article 14 explains that people with disabilities and Deaf people have the right to liberty and security like everyone else;

Article 33 requires the government to make sure that the human rights of people with disabilities and Deaf people are properly observed

### **Strengths and weaknesses of the current situation in Canada**

Many disability and Deaf organizations, including the Canadian Association of the Deaf - Association des Sourds du Canada, are aware that in Canada most violations of the human rights of PWD and Deaf people are not deliberate and intentional but result from systemic discrimination, inappropriate priorities, and simple ignorance.

The consequences; however, are the same: discrimination because of their disability. Any type of discrimination is inexcusable

### **Possible policy recommendations**

There are several structural barriers that prevent PWD and Deaf citizens from enjoying their

full human and civil rights and participating in the public life of Canada. The Council of Canadians sought commitments from Canada's major political parties on initiatives focused on enabling full citizenship. Still, lots of barriers persist. To remove these barriers, the federal government should:

- Encourage captioning and/or interpretation of information and entertainment;
- Provide technical and human assistance to access telecommunication services and systems;
- Provide education in the most enabling environment. The language and methods of education must be best suited to the needs, skills, and preferences of the person;
- Ensure the provision of devices required for the safety and comfort of PWD and Deaf people (including visual signal devices);
- Promote acceptance, respect, and understanding of the different needs, language, behaviour and values of people with disabilities and Deaf people;
- Recognize the Sign language of Deaf Canadians;
- Enforce equal opportunity for employment of Canadians with disabilities and Deaf Canadians.
- Early childhood intervention

should include teaching the parents how to include their disabled child in the family politics, and how to recognize the politics involved in any situation touched by the fact of disability;

- Compulsory courses in Canadian politics in all schools, taught by teachers trained and qualified for political education, and employing innovative and challenging methodologies;
- Government should enact strong, pro-active legislation requiring fully accessible political broadcasting, employment equity practices in the media, and the integration of disabled/Deaf programming and issues;
- Financial and resource support should be provided to organizations of PWD and Deaf people to enable them to carry out non-partisan political workshops for their membership at least biannually (every two years);
- Full accessibility of political party organization meetings and information must be provided;
- Political parties should undertake the active recruitment of members and election candidates with disabilities and language differences;
- Elections Canada and the provincial and municipal election

authorities should provide 100 percent reimbursement of extra expenses undertaken during an election campaign by candidates who are disabled or Deaf, regardless of the number of votes they receive;

- There must be greater representation of PWD and Deaf people in government, civil service, business and unions, regulatory agencies, and commissions;
- Training programs for PWD and Deaf people must be provided in the fields of self-awareness, self-assertion, empowerment, independence, participation, leadership, networking, information analysis, and implementation

## **Transportation and Disability: A Background Overview**

### **Current legislation**

The Canada Transportation Act (1996) and the Canadian Human Rights Commission regulate the accessibility policies for Canadians with disabilities and Deaf Canadians.

The Canadian Transportation Agency is a regulatory agency with the authority to require transportation service providers within federal transportation network such as air, rail, and marine to improve accessibility issues.

## **Positions outlined in the Convention on the Rights of Persons with Disabilities and in international acts**

Transportation accessibility for PWD and Deaf persons is reflected in Article 9 and Article 21.

Article 9 says that people with disabilities and Deaf people must have equal access to physical environments such as schools and hospitals and workplaces, transportation, information, communications, technologies, and other places and services open to the public. Governments must set standards and good practices for accessibility. For example, buildings should have information posted in Braille, public buildings like museums should provide professional Sign language interpreters, and Internet websites should have an accessible design.

Article 21 explains that people with disabilities and Deaf people must receive information in accessible formats and technologies in a timely manner and without additional cost when using official services, such as transportation.

## **Strengths and weaknesses of the current situation in Canada**

In their various reports, the Council of Canadians with Disabilities and the Canadian Association of the Deaf - Association des Sourds du Canada identified several problems with transportation accessibility:

- 1. Physical barriers:** air and rail companies still have too many barriers;
- 2. Psychological barriers:** transportation companies' staff apply their own judgement and opinions to customers who are Deaf or disabled. This may be disrespectful and inappropriate;
- 3. Airport barriers:** Domestic air carriers are now charging travelers to check their luggage. This is a barrier for passengers with disabilities who may need to travel with various aids, devices and supplies. Not all terminals (airports, train and bus stations, marine facilities) use adequate signage (e.g. electronic display boards) to announce boarding times;
- 4. Service barriers:** travelers now find that a variety of services in terminals are offered through inaccessible touch screen devices. These devices are a barrier to travelers with physical and sensory disabilities;
- 5. Technological barriers:** software does not always support adaptive technologies. Instead of updating systems, companies rely on outdated accommodations, such as TTYs;
- 6. Systemic barriers:** without a proper legislation, companies are

not motivated to make all the necessary changes. CTA has an Advisory Council on Accessible Transportation. However, their recommendations for improving accessibility have no enforcement or legislative power: they are voluntarily.

### **Possible policy recommendations**

- **Policy development:** Canada could adopt the US regulatory accessibility model and utilize US Access Board guidelines and expertise – they already work. In the meantime, the government should work with the disability and Deaf communities to develop a deeper understanding of the barriers they face.
- **International consultations:** in the United States, as well as in many other nations, there are best practices on inclusive and universal design. If these solutions work in other countries, why wouldn't they work in Canada?
- **Internal consultations:** the Minister of Transport should appoint as full-time members to the Canadian Transportation Agency (CTA) persons with expertise who are based in the PWD and Deaf communities.
- **Advisory Council On Accessible Transportation:** their recommendations should be mandatory, not advisory.
- **Knowledge sharing:** the government should call for the development of a national action plan to look at best practices in other jurisdictions. It should monitor progress, results and complaints coming along the way. Constant consultation with the disability and Deaf communities must be maintained.
- **Practical research:** the Minister should improve the capacity of the Transport Development Centre to make a research related to finding new means of advancing accessibility and universal design. It should apply to all federally regulated modes of transportation and service delivery. For example, all transportation terminals should provide and use good visual displays of information and announcements. The security personnel must be better trained to deal with travelers who have disabilities and/or are Deaf.
- **Rights-based approach:** the solutions offered by the government should place human rights and dignity of an individual first. Accessible transportation design should be based on inclusiveness, and not on a medical model.

# THE COMMUNICATIONS LENS

---

The purpose of this paper is to draft a set of guidelines to evaluate 3 kinds of accessibility:

- Communications;
- Language;
- Literacy.

These guidelines should apply to almost anything, from goods and services to public spaces.

The guidelines used in this documents are taken from various Canadian and international sources, including the Canadian Disability Policy Alliance, the Canadian Human Rights Commission, the Canadian Association of the Deaf - Association des Sourds du Canada, the American Center for Inclusive Design and Environmental Access, and the Norwegian Directorate for Children, Youth and Family Affairs.

This “communication lens” will focus on 5 groups:

- Intellectual/Developmental;
- Deaf;
- Blind;
- Deaf-blind;
- Literacy/Language.

There are several universal design principles that should be observed.

**Equity:** the design is useful to people with diverse abilities and it doesn't segregate or disadvantage any group of users. For instance, hotels should have telephones that blind people can easily use, and it should have visual alarm systems for Deaf people.

**Access:** the design accommodates individual preferences and abilities. For example, Deaf people should be able to use text messaging systems in banks, and blind people should be able to communicate with the Canada Revenue Agency to do their tax returns.

**Simplicity:** the design should be easy to understand for people with all intellectual levels and knowledge/experience. For instance, online banking systems should be made accessible to customers with developmental disabilities, and every TV set should have clear instructions for turning on the closed-captioning.

**Equality of information:** people with communication disabilities and language differences should be able to get the same information that other people get, in a format that is accessible for them. In other words, don't remove any of the information, just make all of it accessible.

**Tolerance for error:** universal design should minimize consequences of accidental and unintended actions for customers with disabilities and Deaf customers. In making your place or services accessible to some people with disabilities, don't accidentally make it inaccessible to people with other disabilities.

**Size and space work well for everyone:** Deaf people require architectural designs that allow them to see other people approaching. Blind people need acoustical accommodations to hear the approaching persons. People with low literacy skills need graphic signs with clear meaning.

**Low physical effort:** the design should not require a lot of energy on the part of the person with the disability or deafness. Examples: easily-reached buttons to turn on lights from a bed or a chair, shake-awake alarms, two-way light-switches in room entrances and bathrooms, flashing door-knocks and phone-rings, clear visual signage and indicators, visual communication devices inside elevators and other enclosed spaces, etc.

## Policy Questions

- Does the organization have specific policies intended to meet the communication needs of PWD and Deaf people?
- If they have these policies,

which disability or difference categories do they involve?

- Who establishes what disability is?
- Does the policy include resources to cover the costs of accommodation?
- What do these accommodations try to achieve? It could be equity (freedom from discrimination), access (ability to participate) or support (resources to meet special needs).
- Does an organization's policy view PWD and Deaf people as a group with special (separate) accommodation needs, or does the organization take an approach that ensures universal access for every member of society? For example, Braille signage would be "special (separate) accommodation" intended only for blind people, whereas wordless graphic signage with Braille dots would ensure access for everyone regardless of disability or non-disability.

## Relativity

- Does the accessibility policy apply across the entire jurisdiction? For example, if one kind of federal social service has an accessibility policy, does its policy also apply to other federal social services?
- Does it apply to other programs (not social services) that are offered by the same organization or government department?

## Outcome

- Who wins and who loses when this policy is enacted?
- What would be the impact on: other disability groups; business/private sector; other kinds of minority groups; other citizens generally?

## Specific Environment/Situations: Government Buildings

### Outside

- Does the building have clear identification both inside and outside? It can be achieved by using graphic symbols, simple writing, sound systems and blind-accessible formats such as Braille and raised lettering;
- Do the entrances have consideration of weather effects? (Proper drainage, indoor rugs, door mats, clear of snow and ice);
- Are the lights strong enough outdoors?
- Is the entrance fully accessible for people who have mobility challenges?
- Are the doors easy to open? Fully automatic doors activated by motion detectors are preferred, but power operated doors activated by accessible switches can work as well;
- Do doorknobs provide an adequate grip?
- Does all signage use colors that

people with visual impairments can most easily see?

- Is entrance to the building guarded by security? If so,
  1. Can any of the security personnel communicate in Sign language?
  2. Is entry only by verbal means or are there other accessible means? Entry that uses only an intercom, for example, can be a barrier to people with deafness or limited speaking ability.
  3. Is the security process simple enough for people with intellectual disabilities? Does it leave them fearful or confused? Is the security process accessible for deaf-blind people?
  4. Is the security desk supplied with pen and paper or two-way texting for the accessibility of people who do not speak or hear?
  5. Do the security personnel have proper training in interacting with people who have communication disabilities? Do they have proper sensitivity training? Can they tell the difference between someone struggling to communicate and someone “acting suspiciously”?
- Does the building have

accessible parking? Careful consideration should be given to locating parking stalls so as to minimize the need for persons in wheelchairs to travel behind other cars since wheelchairs are difficult to see from inside a vehicle, especially in a rear view mirror;

- Are curb ramps clearly defined (cane detectable, curved edges, contrasting raised texture)?

### **Elevators**

- Are the elevators clearly identified, particularly if each elevator only serves a few floors of the building? For example, in larger buildings, some elevators only serve the top floors, some only serve the middle floors, and some only serve the lower floors; are they each easily identified?
- Will someone with low literacy skills be able to pick out the elevator that serves the floor they want to visit?

---

## **Do the elevators have some form of visual and audio two-way communication in the event of its stalling between floors, or in an emergency?**

---

- Are emergency telephone cabinets mounted at an accessible height?
- Are the floor carpets well-fitted to the floor to make maneuvering for persons in wheelchairs easy?
- Persons who have stability or balance problems depend a great deal upon handrails in elevators. Are handrails in elevators graspable enough?
- Do all the elevators have buttons in Braille and raised lettering?

### **Inside the building**

#### **Emergency exits:**

- Are the emergency exits clearly marked? Can a person with intellectual disability easily understand the directions?
- Are the emergency exits accessible for Deaf/Blind people? Can they easily find the exits?
- Are there detectable warning strips on walking surfaces?
- In case of emergency, are these exits wide (open) enough to allow people with mobility disabilities escape in a timely manner?

#### **Washrooms:**

- Does the building have universal washrooms? Is it spacious enough for a person and their companion/assistant, e.g., guide-dog?
- Are the accessible washrooms located on the main floor near the main entry?

- Are washrooms equipped with emergency alerts designed for Deaf/Blind people?
- Are there call buttons in buildings with security personnel?
- Do all of the washrooms (not just the accessible washrooms) have visual fire alarms?

**Surface:**

- Paths of travel: does the building have a permanent, firm and slip-resistant surface for Blind people or people who use wheelchairs?
- Is the area free of obstructions (directional signs, tree branches, guy wires) and does it have handrails to meet the needs of Blind people?
- Do travel paths provide assistive material for the Blind people (directions, exit and emergency exit locations)?
- Does the building have proper lighting to help the people with low visibility skills?
- Is the wheelchair's footrest included in the turning radius for doorways and corners?
- Is there a consistency of materials and colours?
- Do the materials promote balanced sound attenuation?
- Do walls have a smooth surface? Is there an unimpeded perception?
- Are handrails located on both sides of a ramp or a stairway? Are there

tactile cues and arrows on handrail at top and bottom of stairs and ramps? Do handrails contrast with surrounding surfaces?

**Service accessibility:**

- Do queue mechanisms accommodate the needs of various kinds of disability and language differences? For instance, is the announcement system effective in drawing the attention of Blind/Deaf people, or people with intellectual disabilities?
- What methods are used to ensure Deaf and hard of hearing people will know when it is their turn to be served?
- Is the staff given proper sensitivity training?
- Does the staff have the means of communicating with people who do not hear or speak?
- Is the customer service simple and comfortable enough for people with intellectual or developmental disabilities? Does it leave them without fear and confusion?
- Are walls and floors made of sound-absorbing materials? Deaf people need to feel the footstep vibrations of someone walking towards them; does the flooring material allow these vibrations to be sensed?
- Are there switches to turn off noisy devices?
- Are loud speakers away from crucial areas of communication?

# PART III: POSITION PAPERS – FRAMEWORK SUGGESTIONS

---

The Project Coordinator adapted the Government of Canada’s “Discussion Paper” on federal accessibility legislation into a questionnaire for our partner organizations. The questionnaire was intended to provide them with guidelines for writing their own position papers as to what the proposed legislation should strive to achieve, and how it should do so.

## Government Accessibility Position Questionnaire

### Introduction

This document is modelled after the Discussion Guide created by the federal government as a part of the upcoming accessibility legislation. We will summarize and present the government’s vision of what that accessibility legislation might look like. We also want to hear your opinion on these policies, because it is your feedback that counts.

### The goal

The goal of the legislation is to increase the inclusion and participation of Canadians with disabilities and Deaf Canadians in society. It also aims to promote

equality of opportunity by removing barriers and improving accessibility.

Do you have any comments about this goal? What do “accessibility” and “barriers” mean to you? Can you think of some examples?

### The format

When the government adopts a law or regulations, it can take two different forms.

**Prescriptive approach:** The government sets out specific rules leading to what the government believes would be the best results. Example: “The rule is that all buildings must have visual and audible fire alarms.” The best result of this rule is that all people will be alerted by the alarm if a fire breaks out.

**Outcome-based approach:** Instead of setting out precise rules, the government sets out goals, and lets people decide how to achieve those goals. Example: “The goal is to make sure all people will be safely alerted if a fire breaks out.” In one building, they decide to install visual and audible fire alarms; but in another building, they decide

to appoint someone to make sure everyone gets out of the building when a fire starts.

Which approach do you think would benefit you more? Should the government accept both, or concentrate on one way?

### **The targets**

Federal accessibility legislation won't cover all institutions that exist in the country. It would only apply to those areas that fall under federal responsibility. These areas are: Parliament, federal departments and agencies, Crown corporations, federally-regulated businesses and industries, federal courts, Armed Forces, RCMP, federal lands, and private companies that wish to do business with the federal government.

---

**Things that are under provincial or municipal responsibility won't be covered by federal legislation. City buses, traffic signals, private housing, and restaurants won't be covered because they are not under federal responsibility.**

---

Are there any other organizations or industries within federal responsibility that should be covered by this legislation?

### **The barriers and issues**

Which barriers and issues should the legislation address?The government identified several barriers in different areas where legislation can apply:

- the built environment;
- employment
- program and service delivery;
- transportation
- goods and services;
- information and communications

Are there any other areas where accessibility can be improved?

Should the federal government build upon the experience of provincial governments and other countries? For example, the Accessibility for Ontarians with Disabilities Act (AODA).

### **Compliance**

How should the government make sure that these new laws are observed and enforced?

This new legislation will likely explain how compliance (implementation) will be monitored. Some ways to do this could be the following:

- **Action plans:** Organizations would have to file action plans explaining how they will improve accessibility for PWD and Deaf people;
- **Progress reports:** Organizations would have to submit reports about their progress in improving their accessibility;
- **Reviews and audits:** The federal government could inspect (audit) the progress an organization is making towards improving its accessibility;
- **Complaints mechanisms:** The government might decide not to monitor or enforce the accessibility legislation, and instead a person would have to file a complaint. This is the same way human rights are enforced now: you have to file a complaint with the Canadian Human Rights Commission to get your human rights implemented.

Once a complaint has been filed, there are several ways to enforce the legislation:

- An informal or formal mediation process;
- Public reporting that identifies organizations who don't comply with the accessibility legislation;
- Orders to fix an issue, and a timeframe to comply with the rules;
- Financial penalties

What other methods do you think the federal government should use to make sure the legislation is observed?

### Support

How should organizations be encouraged and supported to improve accessibility?

The legislation could involve measures to encourage organizations to improve accessibility and remove barriers, such as:

- **Rules relaxation:** fewer reports, more public recognition and promotion, or more financial rewards for those organizations that show accessibility leadership;
- **Federal oversight:** the creation of a federal centre to provide information and tools to help organizations remove accessibility barriers;
- Financial support for doing research and using best practices on accessibility and barrier removal.

Do you have any ideas as to what the government could do to help organizations to remove barriers and improve accessibility?

Do you have any thoughts about the ways the government could encourage organizations to show accessibility leadership?

## **Effectiveness**

How can the government know if this legislation is effective in removing barriers and improving accessibility?

How often should the government report to Canadians on the progress of accessibility?

How often should the legislation itself be reviewed?

# **POSITION PAPERS FROM THE PARTNERING ORGANIZATIONS**

---

We received position papers from 8 of our partner organizations. It should be noted that none of the organizations of persons with intellectual disabilities were able to provide their position papers: at one extreme, these organizations lacked any resources for the task (e.g., all members are volunteers, and/or all members lacked the political or legal skills they felt were required for the job), and at the other extreme, at least one organization which did have resources was also a partner in one or more other projects and felt overwhelmed by the demands such multiple involvements placed upon them.

In soliciting their position papers, we pledged to our partners that their submissions would not be edited other than for spelling and grammatical errors, or for clarity. In some cases, a position paper does

not follow the framework or match the government's Discussion Paper; this is their choice and it does not invalidate the recommendations they offer towards the development of the federal accessibility legislation.

## **Deaf Literacy Initiative (DLI), Chris Kenopic**

### **The goal**

Realistically it's good to have legislation and the only concern is how it's going to be reinforced. How many regulations do we have already that are not being followed through because of no set policies or enforcement?

### **The format**

Working in the not for profit sector for over 20 years now it's never a good idea to set out objectives and

let others set up their own way of reaching those objectives. Simply because it leads to confusion and no set standards are the same. One place may be more accessible whereas the next location may have weaker objectives. So if a Deaf person is happy in one location will this person have the same satisfaction in another location? I do not think so... Objectives should be set out and then criteria be set to meeting those objectives to ensure no one misses anything... Better yet... a group session set up where different people come together in formatting the criteria and standards and it sets a stronger standard for all to follow.

### **The targets**

This is something that needs to change... If there's a Federal legislation it should be applied all the way down to municipal level. For instance, we have federal laws which apply to every level of government so why can this law not apply too? Standards applicable to all levels will be less confusing and a real barrier removal for Deaf and disabled people. Not doing so only leads to frustration and legal battles which is definitely not necessary.

### **The barriers and issues**

All of what you have identified should be addressed in legislation. The government should collect

legislation from other countries that have national accessibility legislation. No point re-inventing when we can use what others have written down. We could do better than some by adding strong legislation and guides and seeking input on other's weaknesses to help us develop stronger legislation.

### **Compliance**

Progress reports, reviews/audits and complaints mechanism are good to include in legislation but more importantly is how we will ensure there's enforcement. We have the AODA but the enforcement part is lacking... let's not make the same mistake for the Federal legislation. How are other countries enforcing it or are they lacking?... if so then we must make every effort to avoid it being weakened otherwise it's waste of tax money. Complaint process: will it have its own department and those running it will be people of various disabilities themselves? Or is this going to have able-bodied people overseeing it because of unions? What I mean here is, will they have to hire internally first, or will anyone be able to apply for the position? Often this is a barrier to hiring qualified people with experience (disabilities & Deaf). Yes there have to be penalties set for not complying with legislation and these again need to be enforced.

## Support

Clear communication is a MUST! Take this example: go to the Canada website and try find information about different scenarios for immigration forms/services. This site is so confusing even the guidance is not helpful. Avoid this mistake and get the right people in to do a clear site guidance for the information and resources needed. Again it takes the right people to develop this site and not just web designers who are paid to develop it but do not understand the issues of access and etc. Government needs to set examples themselves of showing accessibility leadership so that others will follow!

## Effectiveness

I think perhaps the same way they do it already for National Security, Health, etc. Have an annual audit of its performance to be reported with recommendations for improvements if any.

## Alberta Society of the Deaf-Blind (Canadian National Society for the Deaf-Blind), Nancy Dillon

We, Alberta Society for the Deaf Blind (ASDB), wish to contribute to the CAD-ASC report regarding recommendations for the Federal Accessibility Legislation.

In conjunction with the UN Convention on the Rights of Persons with Disabilities, ASDB believes that DeafBlind people should have:

- Appropriately trained, supportive, community-based and home-based services, paid by government, to support independent living, social inclusion, and full citizenship

We believe mainstream society is responsible to:

1. Engage in collaborative and consultative proactive planned accessibility, incorporating genuine Universal Design principles in everything we use, everything we build, every service we offer or access (creative Universal Design solutions that attempt to engage as many senses in the environment as possible; vision, sound, touch, smell, taste, sense of gravity);
2. Embrace (not marginalize) the diverse communities represented in Canada's populations.

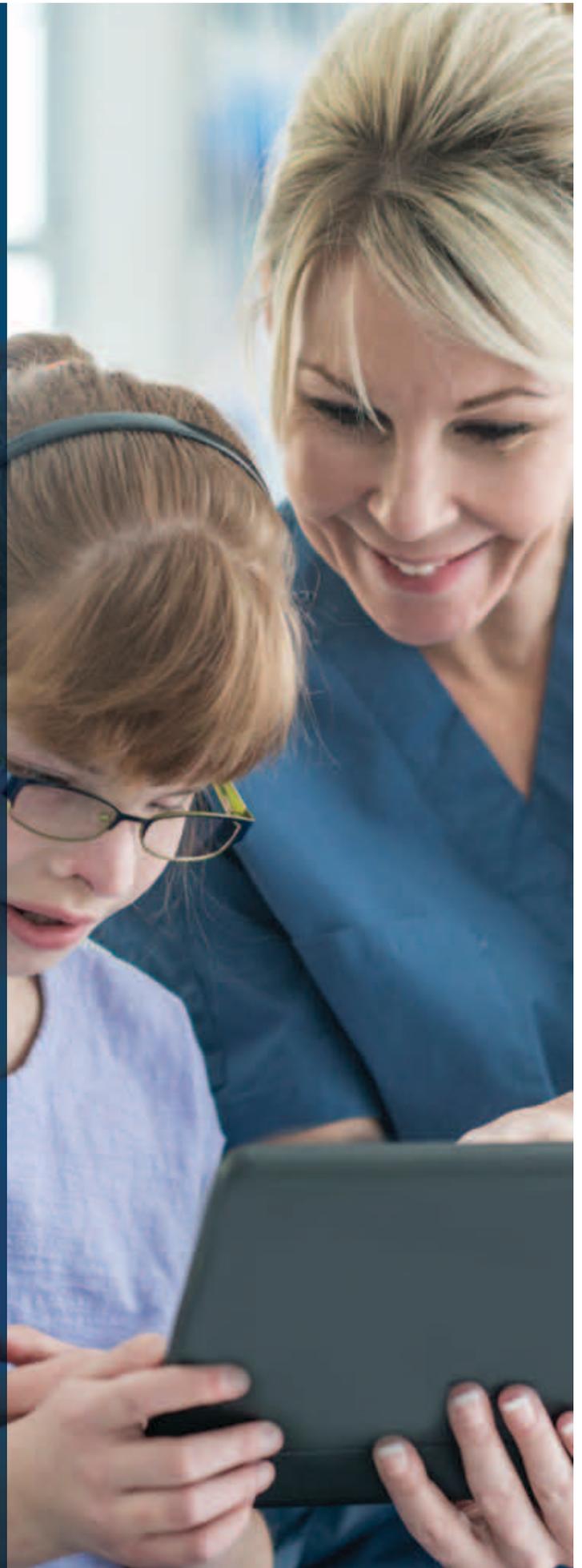
## Who Are We

For the purposes of this document, we will use the term DeafBlind to represent various combinations of differing levels of hearing or sight including persons who might describe themselves as deaf-blind, hard-of-hearing-blind, low-vision-

---

Like all populations, DeafBlind people may experience other disabilities such as mobility, cognitive, learning, as well as medical conditions that affect our ability to participate in our communities. We are infants, children, students, youth, adults and seniors; we are represented in all races and cultures, as well as the LGBTTQI communities.

---



hard-of-hearing, low-vision-deaf, deaf-blind-plus other disabilities or medical conditions, etc.

DeafBlindness is a condition that combines any degree of hearing loss with any degree of vision loss that interferes with communicating and acquiring information, even though the person with DeafBlindness may still have varying levels of useful vision and hearing (Watters & Owen, 2005).<sup>1</sup>

Each DeafBlind person is different, but anyone with a dual sensory loss is likely to need support with:

- Communication
- Accessing information
- Mobility and getting around safely.

Some DeafBlind people have additional complex and specialist needs, such that they may require additional support services. People can be born DeafBlind, or become DeafBlind due to congenital conditions, illnesses, accidents or aging.<sup>2</sup>

Like all populations, DeafBlind people may experience other disabilities such as mobility, cognitive, learning, as well as medical conditions that affect our ability to participate in our communities. We are infants, children, students, youth, adults and seniors; we are represented in all races and cultures, as well as the LGBTTTQI communities.

We are relatively small in number, based on a per capita measurement. We are often isolated, overlooked and marginalized. To respond to this, ASDB has identified three primary services that are integral to our participation in our communities, workplaces and to engage in the tasks and responsibilities of everyday life: **service support providers (SSP)**, **interpreters** and **communication facilitators (CF)**.

Support Service Providers (SSP) are trained support workers, hearing or deaf, whose role is to enable the autonomous performance of personal daily tasks by DeafBlind

---

<sup>1</sup> Watters, C., Owen, M. (2005). *A Study of DeafBlind Demographics and Services in Canada*. Canadian National Society of the DeafBlind. [www.cdbanational.com/PDFs/Demographic%20Study%20%28English%29.pdf](http://www.cdbanational.com/PDFs/Demographic%20Study%20%28English%29.pdf)

<sup>2</sup> Adapted from *Fair Care for the Future: Why social care matters for DeafBlind people*. Prepared by Sense for DeafBlind People, London England, July 2012. [www.sense.org.uk/content/fair-care-future](http://www.sense.org.uk/content/fair-care-future)

or hard-of-hearing-blind persons. Facilitating the DeafBlind persons' access to, and engagement with, their communities is key to personal empowerment and independence. SSP services meet this need. {In some parts of Canada, the term "intervenors" is used for this SSP role.}

Key to the SSPs' effectiveness (core competency) is fluency in the DeafBlind / hard- of-hearing-blind person's preferred language (e.g., Sign language, English) and communication methods (e.g., tactile methods, voice-over).

SSPs mediate common activities such as (but not limited to) errands and activities such as: dealing with mail (electronic or paper), shopping, banking, and booking appointments or travel. The SSP assists the DeafBlind or hard-of-hearing-blind person to attend appointments, family gatherings, community and social engagements, volunteer or employment commitments, leisure and recreational activities, or events,

etc., by guiding the person to and from (in and around) the venue, using navigation techniques that fit his or her needs and preferences.

The SSP is constantly describing the physical environment, the activities taking place around them, and the 'mood,' 'atmosphere' or 'dynamics' of their surroundings.<sup>3</sup>

The SSP may also act as a communication facilitator (CF)<sup>4</sup> for conversations (e.g., FaceTime, Skype, VRS)<sup>5</sup>, presentations or meetings conducted in ASL (or LSQ).

### **Communication Facilitators (CF)<sup>6</sup>**

A communication facilitator, or CF, is a skilled signer who "copies" and "relays" the Sign language message of someone else directly to a DeafBlind person. The DeafBlind person may be attending a meeting, event, or engaged in a video call where the other speaker(s) or participant(s) are communicating in a Sign language. The CF repeats the information being presented in Sign language

---

<sup>3</sup> Adapted from Nuccio & Smith (2010) *Comprehensive Training for Deaf-Blind Persons and Their Support Service Providers*, p.5: [www.seattledbsc.org/dbssp-curriculum](http://www.seattledbsc.org/dbssp-curriculum)

<sup>4</sup> See Appendix B "Definitions"

<sup>5</sup> See Appendix B "Definitions."

<sup>6</sup> Description adapted from *Seattle's Deaf-Blind Service Center*: [www.seattledbsc.org/cf-program](http://www.seattledbsc.org/cf-program)

directly to the DeafBlind person, using that person's preferred language and communication methods. As well, the CF provides additional information about what is happening in the environment (e.g., who is speaking, where people are sitting, the set-up of the room, the dynamics and atmosphere of the setting). When the DeafBlind person wishes to contribute or respond, he or she will sign for him or herself. The CF role also includes assisting the DeafBlind person with physical navigation of the environment.

## **Accessibility Legislation: Federal Programs and Services**

### **Current systemic barriers to Service Canada - Communication**

- 1.** Citizens' access to Service Canada is limited to phone or web (primarily print) communication. Limiting information to only those two communication channels presents a significant systemic barrier for those with print disabilities, those dysfluent in English or French, those who cannot use the telephone, among others. Not to mention, not all regions of Canada have high speed Internet.
- 2.** Service Canada refuses to communicate to Canadians using email or text - even if they

are deaf / hard of hearing. This refusal also affects others who are unable to use the phone. TTYs are obsolete technology. Government employees do not know how to answer their TTY lines anyway.

- 3.** To access face to face services, Canadians must make appointments (no walk-in services available); this means for some Deaf or DeafBlind persons they must physically go to a Service Canada office, make an appointment, and return later at the appointment time.
- 4.** Interpreting services for Deaf or DeafBlind persons are not easily arranged; government employees don't always know how to arrange these services, or are hesitant to arrange them, because of the cost charged to the department. There is no route for Deaf or DeafBlind persons to make a request for interpreting services in advance of going to Service Canada (that we are aware of).

### **Solution Recommendations**

VRS does present an option for ASL/LSQ Canadians to telephone Service Canada to access information about Canadian programs and services, but given the restrictions on VRS hours and staffing, this is not the preferred

solution to obtaining equitable access to the Federal Government's services and programs.

Instead, we recommend the Federal Government provide easy to access face-to-face contact with Service Canada employees who are fluent in ASL and LSQ, via Skype, FaceTime, or other high quality video-based media. DeafBlind people may require the services of a CF in order to access these video ASL or LSQ conversations.

Provide communication options for Canadians who cannot use the telephone, but are comfortable with print-based communication, for example e-mail, chat messaging, or some other forms of text-based real-time communication.

## **CRTC**

We acknowledge that Video Relay Service (VRS) is now available, on a limited basis, in Canada. While a notable improvement over the total absence of services, the current system in no way represents equity for ASL/LSQ Canadians in terms of access to telecommunications. And the current service completely excludes DeafBlind Canadians.

## **Solution Recommendations**

- Expand VRS to 24/7/365 availability.

---

## **In order to ensure equal access to telecommunications for DeafBlind Canadians, sufficient, ongoing funding must be made available to cover the costs of Communication Facilitation (CF) services for video calls.**

---

Mandate that all TV programs and transmissions broadcasted in Canada (including emergency broadcasts) must be accurately captioned.

- Transportation (Air, Rail, Ground, Terminals)

We request Federal legislation or regulation be put in place to allow DeafBlind travellers' SSPs services/escorts to travel for free; meaning the fare for SSPs to travel (including taxes and other charges) be waived as they work in their role to assist with guiding and navigation of the DeafBlind person as he or she travels.

- All auditory announcements (whether in terminal or in transit) must be displayed on digital signage.

- Videos must be captioned (e.g., safety videos, movies for entertainment)

### **Video Communication - 360 Degrees**

Deaf, Hard of Hearing, and DeafBlind Canadians are employed by banks, the Federal Government and many other industries under Federal jurisdiction. We are both the provider and the receiver of services; we are both the producer and consumer of goods.

As such, we recommend legislation that mandates videos used in the built environments, in the employment environments, the service environments, the transportation environments, and any other environment subject to Federal regulation, regardless of whether these videos are designed for the public, for internal use, or for any third party use:

- Be accurately captioned (closed or open)
- Include described video

This includes video material put on the web, made for employee training purposes, public awareness or informational purposes, or any other purpose.

*Note: Captioning MUST NOT be done, exclusively, through voice recognition (VR) software without*

*being reviewed for accuracy. VR is not a reliable function at this time (just like translation programs from English to French, and vice versa, are not accurate).*

### **The Built Environment**

We realize the Federal government might not have jurisdiction over building codes, but inasmuch as it does have influence on the provinces, and has jurisdiction in designing its own buildings, both indoor and outdoor public spaces, these built environments should be accessible and user-friendly for DeafBlind persons.

Many of the features for universal design are helpful to DeafBlind persons, for example:

- Stairs, ramps, elevators, lifts, escalators
- Wide entrances, wide doorways, lever door-knobs, button or motion controlled power doors, absence of doors (e.g., to enter bathrooms)
- Tables and chairs strategically placed for resting, or waiting
- Elevators would need a tactile spot that vibrates and signals which elevator is available. DeafBlind people would place their hand on the device to receive cues as to which elevator has reached their floor.

Aids to navigating<sup>7</sup> for DeafBlind people include:

- Walkways (flooring, sidewalks) with texture contrast and colour/shading contrast – these contrasts cue changes in slopes, direction, traffic (pedestrian, vehicular), change in space/room
- Incorporate lighting (flooring, walls, etc.), audio, and tactile (vibration) cues in design as is appropriate
- Braille on signs, elevator buttons, tactile maps for buildings
- Wide hallways with bannisters or perhaps wainscoting, incorporating tactile features (e.g., notches or other tactile cues) to indicate changes in environment (e.g., hallway intersections, doors to rooms, bathrooms)

### **Service Inequities and Disparities**

We would like to bring to attention disparities in the way DeafBlind Canadians are supported in the medical and rehabilitation fields as they transition to changes in their vision. People who are involved in vehicle accidents, or face other medical conditions that change /

decrease their mobility have access to rehabilitation services to learn how to adjust and adapt to their new condition. Government will fund these types of rehab services and supports. However, those who have changing or decreasing vision are referred to CNIB for the professional services necessary to transition to and rehab for their new reality. The CNIB does not receive government funding to provide these rehabilitation services. These services are funded mainly through grants and donations.

This disparity of treatment demonstrates an explicit discrimination on the part of government towards blind people. In Alberta, there is a doubled discrimination, because CNIB has refused to pay for interpreting services for DeafBlind people to attend Braille classes. They indicate they have no funding to provide interpreting services. We continue to address this discrimination locally. But we think it's important for CAD-ASC to help point out this disability-related inequality of treatment as it applies to rehabilitation services, and how blind and DeafBlind people are marginalized by the current funding models.

---

<sup>7</sup> *Seattle, Washington* is a global leader in making their city and transit systems accessible to Blind and DeafBlind citizens: [www.sdotblog.seattle.gov/2016/07/08/sdot-learns-how-deaf-blind-pedestrians-get-around](http://www.sdotblog.seattle.gov/2016/07/08/sdot-learns-how-deaf-blind-pedestrians-get-around) \* *Experts there would be a valuable resource.*

Related to the above concern is the fact that there is only one facility in Canada that specifically tailors its rehabilitation services to the needs of DeafBlind persons – the Canadian Helen Keller Centre in Toronto. It is not Canadian, it is only in Ontario, and it cannot serve DeafBlind persons from outside of Ontario, as its funding is strictly provincial. We feel, this too, is something the Federal Government could respond to by providing federal funding, or grants, or some other funding structure to allow non-Ontarians to attend CHKC to learn the necessary life skills when a deaf or hard of hearing person’s sight decreases to the extent that it affects daily life and safety.

---

**The actual funding allotment, we imagine, would not be significant (relatively speaking) given the numbers of DeafBlind people in Canada, but it would certainly have an enormous positive impact on the individuals who receive the support and training.**

---

Finally, ASDB, with support from our volunteer ally Tracy Hetman, is focused on working toward getting (provincial) government funding so that adequate levels of SSP services for DeafBlind / hard-of-hearing-blind Albertans can be put in place. We have chosen to use the term SSP, not intervenor, for a number of reasons. First the Canadian Deaf Blind Association (CDBA) and George Brown College have defined intervenors as (only) hearing people. In Canada we use intervenor to mean “interpreter” as well as SSP, or both together. In addition, the role of the CF is also called “intervenor” here in Canada. We feel each role has distinct skills and responsibilities. We reject the idea that ‘intervenors’ must be hearing. We think that DeafBlind people should have adequate (even excellent!) interpreting services for their appointments, including using Deaf Interpreters. We believe those who provide the SSP services could be hearing or deaf, as long as they have the necessary fluency in the language of the DeafBlind person. We have observed that the most competent CFs are Deaf.

In Alberta, the government provides the provincial interpreting agency with funding for intervenor/ interpreting services. But there is no funding for the community intervenor (SSP) who guides and supports DeafBlind persons to

carry out their daily responsibilities. So we have chosen not to use the term “intervenor” in ASDB, so that we can clearly advocate for SSP services, where there is a currently a tremendous gap in Alberta.

So now we would like to raise the last concern about inequity services across Canada amongst DeafBlind populations. DeafBlind persons with cognitive delays receive a much higher level of individualized (SSP-type) services to support independent living (and they should receive adequate funding!) DeafBlind individuals who were deaf/hard-of-hearing and became blind/low-vision, or who were blind/low-vision and became deaf/hard-of-hearing receive little or no funding for services that support independent living and community engagement.

It was due to this discrepancy that a group of DeafBlind individuals in Ontario<sup>8</sup> began a legal suit to bring attention to the inequity. Ontario responded, and the Ministry of Community and Social Services now funds additional intervening (SSP) services to address the gap.<sup>9</sup> Manitoba’s Department of Family Services, and New Brunswick’s Department of Social Development

also fund SSP services for all of their deafblind citizens. BC and Alberta have no funding for SSP services for DeafBlind persons who do not have a cognitive delay. This kind of hierarchy of service is discriminatory.

ASDB would like the new legislation to prohibit educators / educational programs, medical or rehabilitation practitioners, consultants, etc. from discouraging or outright banning (covertly or overtly) the use of Sign language. Here in Edmonton, the hospital that performs cochlear implants strongly discourages parents from using Sign language with their children. In fact parents who do “secretly” use Sign language with their children beg people they know not to tell the hospital! We think this is outrageous and blatant discrimination.

In addition, oral-focused programs for DHH kids often don’t allow the children to learn Sign language. These practices must be stopped. CAD-ASC has access to the evidence-based research that supports children learning Sign language and showing it does not negatively impact the child’s ability to pursue speaking skills. Parents can decide the question of Sign language

---

<sup>8</sup> Queen, L. (June 7, 2005). *Deaf-blind man fights for support*. [www.frank-klees.on.ca/OakRidges/Deaf-BlindYRNG.htm](http://www.frank-klees.on.ca/OakRidges/Deaf-BlindYRNG.htm)

<sup>9</sup> *Service Support Providers and Communication Facilitators*: [www.intervensorservices.com](http://www.intervensorservices.com)



---

**DeafBlind persons with cognitive delays receive a much higher level of individualized (SSP-type) services to support independent living (and they should receive adequate funding!) DeafBlind individuals who were deaf/hard-of-hearing and became blind/low-vision, or who were blind/low-vision and became deaf/hard-of-hearing receive little or no funding for services that support independent living and community engagement.**

---

for their families – and should be given quality information to help them make an informed decision. But others such as educators, consultants, doctors, medical personal SHOULD NOT explicitly or implicitly discourage the use of Sign language. It is in contravention of the UN CRPD, and is morally wrong.

This is particularly an important issue for those children who are deprived of Sign language and later lose their vision. Their ability to communicate as DeafBlind youth or adults becomes tremendously limited.

### **Conclusion**

Much of what CAD-ASC advocates in support of communication equity for Deaf and hard of hearing people will benefit DeafBlind / hard of hearing-blind people. Much of what Blind advocacy groups advocate for in terms of communication and environmental access will benefit DeafBlind people. But there is more that DeafBlind people must have access to, in order to achieve full citizenship... appropriately trained SSP services is a key one.

Again, ASDB believes that DeafBlind people should have:

“Appropriately trained, supportive, community-based and home-based services, paid by government, to support independent living, social inclusion, and full citizenship.”

## **Every Canadian Counts Coalition, Dr. William Cowie**

### **The goal**

Every Canadian Counts has no problem with pursuing the goals of inclusion and participation for people with disabilities in Canadian society. Of some concern however is what those terms mean, as different people define inclusion and participation in different ways. The result is these differences of view have often made for acrimonious and disharmonious debate in the community as characterized by telling rather than listening, rigidity in what constitutes effective interventions, and exclusion of some voices by others who may not agree with what one group means by inclusion/participation.

The ECC Coalition prefers the term “opportunity” – and would welcome the re-branding of the legislation as opportunity legislation not just accessibility or even inclusion/participation legislation. Opportunities can take many forms, and can (and will) change over time as resources become available and technology changes. First, the notion of opportunities allows for differences of what people with disabilities and their care givers view as inclusion and participation. It accommodates a spectrum of solutions, wrapped

up in a coherent program that can facilitate collective impact approaches to social mobilization, in turn widening and deepening the sense of community that fosters individual and collective altruism. Secondly, the opportunities created by such a program are not just for PWD (Persons with Disabilities). It creates opportunities for everyone around them. Family respite would be integral and service provision would allow family members (mainly women) to return to work. Family breakdowns would drop, tragedies would be avoided, and measured and measureable economic gains would be made.<sup>1</sup>

The CAD's emphasis on communication, of which this submission is a part, focuses on an important feature of the collective impact approach – the need for continuous communication.<sup>2</sup>

### **What do “accessibility” and “barriers” mean to you? Can you think of some examples?**

ECC adopts the position of the Australian DIG (Disability Investment

Group) Report of 2009 which stated “...barriers are less to do with particular impairments and more to do with the lack of guaranteed access to customized plans of timely support and development”.

Accessibility and inclusion have focused more on society and society's response to persons with disabilities but in doing so take away from the discussion about what people need in order for them to participate to the fullest of their ability. We ‘handicap’ persons with disabilities by not providing essential supports and then ask society to include them and wonder why it is not working as well as it could.

### **The format**

ECC is advocating for a national disability insurance program. A well designed program would have an element of both prescriptive and outcome-based approaches but would be primarily outcomes focused. The prescriptive part would be the standards, targets, and objectives to ensure that implementation is linked to meaningful performance measures.

---

<sup>1</sup> *Disability Care and Support: Productivity Inquiry Report*, Government of Australia 2011. [www.pc.gov.au/inquiries/completed/disability-support/report](http://www.pc.gov.au/inquiries/completed/disability-support/report)

<sup>2</sup> Born, Paul *Deepening Community: Building Communities that Sustain Us*, Tamarack Institute 2016

## The targets

Are there any other organizations or industries within federal jurisdiction that should be covered by this legislation?

- The proposed insurance program promoted by ECC would not face this issue as it is a funding model, with service supply implications for all. There would need to be a process of negotiation with the provinces (transfer payments, management arrangements). Such a program would potentially impact all support services in the country regardless of whether they were a registered provincial or federal organization if they wanted to participate in the program (they do not have to). Again, the approach must be outcomes-based, but once consensus is reached on those, then the prescription becomes the quality of agreed outcomes to ensure implementation linked to Order Set performance measures.

## The barriers and issues

- An entitlement based insurance program focusing on the provision of essential supports for the chronically disabled would of necessity have to address program and service delivery, goods and service provision, and information and communications (especially enabling technologies and supports). These are the core

components. At the same time an essential support would be an advocate if desired who would help with the issues of gainful employment, transportation and promoting appropriate built environments.

Are there any other areas where accessibility can be improved?

- Essential supports (program and service delivery) are a prerequisite to any meaningful addressing of accessibility, inclusion, participation and opportunity issues. At the highest level of policy there is a requirement to get rid of the STIGMA issues, and beyond that education for persons and caregivers to enable them to participate fully in decision-making in their interests. Having said that, and cognizant of scope control, it should not be the objective of any supports program to take the education and perception issues head on (it is not an education and awareness program). Rather education and awareness raising can be integrated into the support services culture. For example it would be the role of the client advocate – should one be chosen – to make the community aware of the needs of a PWD thereby working to remove the stigma. This kind of scope control would be

essential to preserve program integrity and viability. It cannot be all things to all people.

Should the federal government build upon the experience of provincial governments and other countries? For example, the Accessibility for Ontarians with Disabilities Act (AODA).

- The Australian National Disability Insurance Scheme
- The existing national and provincial health insurance legislation.<sup>3</sup>

### **Compliance**

- Action plans should be people centered – individualized/ customized. Once that is provided then society / organizations will then be in a better position to know what further accommodations need to be made. Employers cannot nor should not be expected to provide an individual’s essential supports.

Additionally action plans must maintain program intent and integrity – provision of essential supports. It is not to fill gaps in existing programs.

- Individualized plans would have regular monitoring and reporting requirements to address progress, meeting of need, and changing needs.
- Performance oversight is essential to maintain focus, scope, and public support for a program of this scale and implications. Part of the oversight would need to be the establishment of an independent oversight body made up of the major players in the disability supports system, people with disabilities, parents and care givers, and agencies and organizations including unions. This independent body would not have government funding but would be supported by its member community and its job would be to ensure the program reached its goals and objectives (outcomes and impact).
- The program should have its own complaints process with the HRC being a last resort. The complaints process must be publicly accountable and be third party administered. A portal could be developed that was open to the public in which questions, concerns could be addressed.

---

<sup>3</sup> Sharon Sholzberg-Gray, former President and CEO of the *Canadian Healthcare Association*, has referred to disability insurance as ‘part of the unfinished business of Medicare’.

- Because the program would be new, the spirit of the complaints process should be one of trying to build/better refine the system. Where egregious issues arise then more forceful enforcement and compensation measures would need to apply. The complaint process is a design issue in and of itself.

What other steps, or other methods, do you think the federal government should consider to make sure the legislation is observed?

- Rolling out of a national disability insurance program would be of a wholly different order. Design and operationalization represent huge challenges and a Performance Management and Reporting Framework with risk management and contingencies would be instrumental to efficient and effective implementation and on-going performance monitoring. All of this must be guided by meaningful indicators, outcomes, targets, and so on linked to performance measures.
- To preserve intent and integrity of the program it would be important to have an independent organization, not funded by the government but by interested parties (disability groups, national organizations, and agency organizations,

unions) to monitor and oversee implementation and service delivery on an ongoing basis. In Australia, the Every Australian Counts Coalition serves this role

### **Support**

- There would need to be pilot sites to test policies, procedures, suitability of design with a strong social media presence to indicate progress and get feedback from participants.
- An independent organization to monitor and oversee performance and program integrity (see above). In Australia the Every Australian Counts Coalition takes on some of this role. It could be accompanied by the creation of a knowledge hub linking the performance specifications to data analysis. It could be a special division of the CIHI or a Center of Opportunities/ Inclusivity Research.
- A research component would be essential both before and during pilot phase and throughout implementation and normalization. The research would include substantial social and economic research and financial modelling. One template for the research required is already available in the studies that led to the implementation of the Australian insurance scheme.

As well, it was research from the Australian NDIS that learned the importance of early intervention for children with autism.

- Federal and provincial politicians could spend more time being seen in the media interacting with persons with disabilities and the organizations that support them, including discussions of ways to resolve the major issues.

Do you have any thoughts about the ways the government could encourage organizations to show accessibility leadership?

- Allow them to fund advocacy organizations without losing their charity status.

### **Effectiveness**

How can the government know if this legislation is effective in removing barriers and improving accessibility?

- A comprehensive Performance Reporting Framework based on outcomes achieved

How often should the government report to Canadians on the progress of accessibility?

- Different components of the program would be reporting at different times but semi-annually or even quarterly during the pilot and roll out stage.

- There would also need to be an ‘always accessible’ portal or portals accessible to the public to deal with different issues as they arise.

How often should the legislation itself be reviewed?

- Every 4 years.

## **Alliance for Equality of Blind Canadians, Marcia Yale**

### **The goal**

People with disabilities need to be able to live in an environment that is more adaptive and universally designed to better meet their needs for access to communication, the built environment and all other aspects of society.

**Accessibility—Can I use it?** Is it something I can deal with independently? These questions show accessibility.

**Barriers:** Poorly-coded web sites, print documents, electronic documents that are pictures rather than plain text, ignorance, attitudes, lack of relief areas for assistance dogs throughout the public transportation system, the potential for significant differences in the provincial landscape that can affect how people are treated—e.g.: service animal laws

### **The format**

The government needs to take the prescriptive approach, as the voluntary one has not worked in the past and will not work ever.

### **The targets**

When money is transferred to the provinces, the new legislation should be able to ensure that the money cannot be used to create or perpetuate any barriers to people with disabilities. For example, the Canada Health Act already governs what can be done with the payments and the new legislation could apply the same logic.

### **The barriers and issues**

All of the issues listed should be included, no exceptions.

Although seeking best practices is an excellent idea, such research shouldn't impede the adoption of appropriate legislation.

### **Compliance**

It varies from sector to sector, with some more likely to respond to financial penalties and others to negative sanctions, such as lost contracts, suspended or rescinded licenses, etc.

### **Support**

Small businesses would welcome financial assistance, but care must

be taken to ensure that those who can afford to remove the barriers are not given extra financial benefits they don't need.

The government needs to lead by example by adopting principles of universal design and therefore encourage a trickle-down effect, where they are the ultimate role model.

### **Effectiveness**

How can the government know if this legislation is effective in removing barriers and improving accessibility?

---

**They will know when complaints diminish, people with disabilities are more visible in every sphere of society, employment rates for identified individuals with disabilities decrease, and poverty levels decrease.**

---

How often should the government report to Canadians on the progress of accessibility?

- The government should report to Canadians every two years.

How often should the legislation itself be reviewed?

- The legislation should be reviewed every five years.

## **Association of Visual Language Interpreters, Ashley Campbell**

### **The goal**

Accessibility means:

- Access to information (TV and online captions, education, airport flight gate information, etc.)
- Accommodation to services (not-for-profit, for-profit, non-government organization, government) by providing interpreters (in-person or relay), video phones, voice to text machines, etc.
- Ensuring the ability to serve on committees, other bodies
- Right to accessible higher education, employment advancement.

Barriers means:

- Not providing the access listed above
- No funding for career and education advancements
- Lack of education and advancement due to systemic barriers in the education system

- Information on websites, brochures, etc. that uses excessive text and/or jargon with
- No compatible ASL / LSQ formats
- Automatic phone tree systems that set non-English or non-French users at a disadvantage
- Government agencies not accepting calls through Video Relay Service interpreters

### **The format**

A mix of both prescriptive and objective approaches where the objectives can be met by various means except when there is an already accepted standard in place, for example: having visual / audible alarms in buildings and wheelchair accessible washrooms.

### **The targets**

Are there any other organizations or industries within federal jurisdiction that should be covered by this legislation?

- Any provincial / municipal projects and venues that receive federal funding.

### **The barriers and issues**

Which barriers and issues should the legislation address?

- Educational institutions
- Federal events, such as

Canada Day celebrations and Remembrance Day events

Should the federal government build upon the experience of provincial governments and other countries? For example, the Accessibility for Ontarians with Disabilities Act (AODA).

- Yes, the federal government can build upon the successes of provincial acts and legislation from other countries. As well, the federal government can learn from the pieces of these acts and legislation that are unsuccessful. Consultation should happen with disability groups to ascertain their opinions on what is successful and what is not.

### **Compliance**

We have no further suggestions.

### **Support**

An approach can be partnering the information from the federal government with the information already available from non-government organizations, and providing support to provincial / municipal organizations to work together on councils in order to present and share information on how to remove barriers.

### **Effectiveness**

How can the government know if this legislation is effective in removing

barriers and improving accessibility?

- Reports from national organizations and user groups to the federal government, and posting these report on a public forum.

How often should the government report to Canadians on the progress of accessibility?

- Every 2-3 years

How often should the legislation itself be reviewed?

- Every 5 years after an initial 1-2 year review.

## **Media Access Canada - Anthony Tibbs**

### **The goal**

First, the use of “disabled Canadians” in the stated objective really serves to put the focus unnecessarily on the identity of these individuals as “being disabled”. It would be preferable that this refer to increasing the inclusion and participation in society of Canadians with disabilities. Second, this goal, as stated, lacks many of the hallmarks of a well-defined objective, which is typically one that is specific, measureable, attainable, realistic, and time-based. Most critically, there is no time-based element (such as the 2025 deadline in the AODA) to provide any yardstick against which ultimate success can be measured.

Truth be told, accessibility and inclusion will always be a moving target: what is accessible today may, by virtue of technological or societal advances, be unsuitable tomorrow, and as such a definitive “deadline” is not necessarily realistic. However, through this process, some milestones should be established in specific areas, such as Media Access Canada and the Access 2020 Coalitions’ stated objective of achieving a fully accessible broadcast day (with captioning and audio description) by 2020.

Accessibility is about having independent and autonomous access to information, products, and services in a manner which is respectful and accommodating of the various mechanisms by which such access may be achieved by different individuals, regardless of their abilities or disabilities. Barriers include any construction external to the individual, be it physical, attitudinal, systemic, regulatory, or policy-based, which renders it impossible or more difficult for a person with a disability to access that information, product, or service, or to make independent decisions, as compared with any other member of society.

**Examples of “accessibility”:**

Receiving marketing information and monthly bills in braille; interacting with your cell phone provider’s customer service through ASL via video

chat; having access to a simplified, large-button remote for your TV that permits those with reduced intellectual capacities to operate the device; receiving user manuals for hearing aids in a format of choice (audio, large print, braille, etc.)

**Examples of “barriers”:** Privacy policies which preclude the use of sign language interpreters or other aides when interacting with federally-regulated entities such as the Canada Revenue Agency; online services (e.g. to renew a passport) which are not accessible or usable by persons who are blind and using a screen reader; videos (without captions or audio description) on streaming media services which are rebroadcasts of fully captioned and described television programming; poor descriptive practices in newscasts with weather reporters and others referring to information that is displayed on the screen (in numbers or words) but not verbalized.

**The format**

A hybrid approach will almost certainly be required, with the legislation itself being drafted around the concept of outcomes, and the supporting “regulations” or “standards” (which are more easily amended and kept current with changing realities) becoming increasingly prescriptive as to the factors that must be taken into account when achieving these

---

Without placing the emphasis on the wishes of the reader, people with disabilities are often forced into using a particular mode of accommodation which may be technically “accessible” but not very *usable* given the intended use circumstance. For example, it is true that a meeting agenda could be rendered ‘accessible’ by recording the same onto a cassette tape or MP3 recorder. However, a person who is blind would not be easily able to refer to that information *in a meeting* without having it electronically or perhaps in braille.

---



objectives. In the absence of specific regulations (developed in consultation with the disability community, service providers, and others) outlining the range of ways in which an outcome could be achieved, organizations will have a tendency to do the bare minimum or not consider the implications of a seemingly simple solution to a problem.

A further consideration when crafting “objectives” or “regulations” ought to be whether the stated objective or regulation will further the overall goal of increasing accessibility and removing barriers, particularly as regards to the independence and autonomy criteria.

To use the “fire alarm” example cited above, one might begin with these two propositions:

**Outcome:** The objective is to make sure all people will be safely alerted if a fire breaks out.

**Regulation:** The rule is that all buildings must have visual and audible fire alarms or there must be an individual appointed whose task it will be to ensure that all persons have been appropriately alerted.

**Problems:** The appointment of an individual to essentially act as “caretaker of the disabled” is a risky and liability-prone proposition. What happens if that

individual is not present when a fire breaks out? What happens when a deaf employee visits the office after hours on the weekend because they happened to leave their lunch bag behind, and an alarm sounds in that unusual circumstance? More generally, why should the employee who is deaf have to rely on a third party to alert them to this potentially life-threatening circumstance, when an alternative (visual and audible alarms) exists?

In the broadcasting and telecom sectors, a similar rationale applies. The “outcome” may be “to make sure that all communications from federally regulated organizations are available to clients and customers in an accessible format”, with prescriptions to ensure that:

- “Available” is interpreted as meaning ‘provided to the customer at the same time as it would be provided to any other customer’
- ‘Accessible format’ is interpreted as meaning ‘a format or medium which the reader can independently access and which the reader deems appropriate given all the circumstances, including, but not limited to, print, large print, braille, audio, ASL/LSQ, etc.’

Without placing the emphasis on the wishes of the reader, people

with disabilities are often forced into using a particular mode of accommodation which may be technically “accessible” but not very “usable” given the intended use circumstance. For example, it is true that a meeting agenda could be rendered ‘accessible’ by recording the same onto a cassette tape or MP3 recorder. However, a person who is blind would not be easily able to refer to that information in a meeting without having it electronically or perhaps in braille. Ergo, simply mandating that information be provided in an ‘accessible format’ does not necessarily, on its own, eliminate barriers or improve accessibility.

### **The targets**

All organizations and industries which fall within federal jurisdiction should be covered by this legislation. In addition to the list above, all entities and organizations – for-profit, non-profit, individuals, corporations, and otherwise – which receive, directly or indirectly, government funds (through grant opportunities, RFPs, etc.) should be subject at least in some respects to the requirements of the Act.

For example, Heritage Canada provides support for organizations and publishers through the Canada Book Fund to “ensure access to a diverse range of Canadian-

authored books nationally and internationally”. If such a grant is used to support the publishing of a book, compliance with the new legislation ought to require that the book be made available in alternative formats (large print, e-text, braille, etc.) for persons with disabilities, too.

Similarly, in any procurement activities, whether for goods or services, accessibility ought to be not only a factor considered, but a mandatory requirement.

### **The barriers and issues**

The successes (to the varying degrees that ‘successes’ have occurred) in other jurisdictions should certainly serve as a building block – or cautionary tale – upon which the new legislation should be based. The AODA has served as the basis and platform for the development of legislation in other provinces, but the weaknesses in the implementation phase of the AODA are worth noting and considering. For example, the significant and ongoing need for a substantial monitoring and enforcement machinery (in circumstances where voluntary compliance has only worked to a degree) is an important consideration in the introduction of any new legislation. Having penalties, fines, or other tools with which to promote and enforce

compliance is only of value if the resources are also allocated to carry out enforcement activities.

## **Compliance**

Enforcing compliance through complaints is not the way to go. First, this flies in the face of the objectives of the legislation which are to improve accessibility and remove barriers. If that is achieved only in the retroactive sense by correcting wrongs that have already been done, the legislation has failed to achieve what it set out to do. Second, it unnecessarily places the obligation on people with disabilities to serve as “police”. If achieving equality and accessibility requires barriers to be policed one by one by individuals, then nothing will have been gained by the introduction of new legislation, since there is nothing stopping consumers with disabilities from taking these actions now under the existing legislation and regimes. Finally, the reality is that no matter how streamlined, efficient, or simplified the complaints process might attempt to be, the very fact of having to “make a complaint” will be a barrier to many people with disabilities who (a) do not have the time or energy to continually fight for what is ostensibly a legislatively-sanctioned right; or (b) lack the intellectual or other

capacity to meaningfully engage in that process. Complaints are helpful in that they will, in some instances, identify areas of non-compliance, but they cannot be the primary mechanism.

Similarly, “action plans” and “progress reports” are not, in and of themselves, an effective enforcement tool. There have been instances where organizations have, three or four years running, identified and carried over the same barrier from year to year with no progress report. While one might be inclined to posit that there would be a psychological cost (and an eventual motivation to act) to an organization repeatedly admitting that a goal established 5 years prior had not yet been accomplished, that hope is not reflected in the lived experience of people with disabilities. There must be some enforcement mechanism or penalty for the (repeated) failure of an organization to identify or resolve identified barriers in a reasonably timely manner. As with complaints, “action plans” and “progress reports” are helpful, but only if the filed reports are actually reviewed (to compare proposed vs. actual progress) and investigative or corrective action taken when appropriate progress has not been demonstrated.

---

## Support

**A lack of accessibility and the existence of barriers is rarely, if ever, a matter of some discriminatory “intent” and more often the result of lack of awareness and the lack of resources, financial and otherwise, to meet accessibility requirements.**

---

The creation of a center of excellence (and the funding to support the same) to develop and communicate best practices, training materials, etc. would be a valuable and important component of encouraging organizations to become more accessible.

However, there are two caveats to this:

1. While a “center of excellence” is attractive, it should not be seen as the only way in which accessibility initiatives may be delivered, especially in organizations where considerable subject matter expertise already exists. For example, both the

Canadian Radio-television and Telecommunications Commission (CRTC) and the Canadian Transportation Agency (CTA) have considerable expertise in their own domains relating to the accommodation and support of Canadians with disabilities, and where such expertise exists in such an integral fashion, it should not be hived off into another entity. In the case of the CRTC, for example, the creation of a “disability rights office” (DRO) within the CRTC would help to consolidate that knowledge and provide a single point of contact for Canadians with disabilities facing telecom/broadcasting issues.

2. “Nothing about us without us.” It is imperative that if any standards, regulations, guidelines, or best practices are to be developed, that consumers with a wide range of disabilities (and the organizations which represent them) be integrally involved in developing, testing, and approving these instruments. “Consultation” in this context means more than surveying 15 people or asking 3 or 4 organizations whether what is being proposed seems reasonable. While this inevitably slows the process as information must be collected, assimilated, and resolutions ascertained to conflicting priorities, it is necessary to ensure that the legislation (and supporting regulations) as

adopted will reflect the actual needs of the community.

More generally, there needs to be meaningful financial support for disability-focused public interest and advocacy organizations that work to inform public policy on accessibility-related matters. In the broadcasting/telecom sector, the Broadcasting Accessibility Fund and the Broadcasting Participation Fund are examples of highly important initiatives that were set up and funded as a result of corporate mergers in the industry. These initiatives have, among other things, enabled many of the smaller disability-related organizations (including Media Access Canada) to meaningfully conduct research and prepare fulsome submissions to inform CRTC policy-making decisions. But both resources are limited in that there is no long-term plan for the replenishment and continuation of the funds and without such support, important policy considerations will not be brought to the forefront.

### **Effectiveness**

Measuring outcomes is complicated by the fact that any given metric will necessarily be impacted by multiple factors including, but not limited to, the adoption of this new legislation. Some possible metrics where we

would hope to see “improvements” might include:

- A decrease in the unemployment and underemployment rate of persons with disabilities;
- A decrease in the number of complaints filed with the Human Rights Commission, the CRTC, the CTA, and other regulatory and oversight bodies relating to accessibility or the accommodation of persons with disabilities;
- Increased representation in media, employment, and politics of persons with disabilities;
- Increased/improved higher learning outcomes for persons with disabilities generally;
- Increased representation in media (TV, broadcasting, etc.) of positive portrayals of persons with disabilities;
- Increased availability of captioning and audio description across all mediums and content access interfaces (TV, streaming services, web-based content access, etc.); and,
- Increased awareness among the general public of the needs and rights of persons with disabilities vis-à-vis basic accessibility requirements and accommodations.

The Accessibility for Ontarians with Disabilities Act, 2005 mandates comprehensive reviews to be completed every four years after the act was introduced. This has proven to be somewhat ineffective in accomplishing the stated goal of achieving full accessibility by 2025, because significant time elapsed before serious progress was made toward the implementation of the AODA. For that reason, we suggest that in the early days, this legislation be given high priority and ongoing direct attention to ensure that it is moving the needle in the correct direction. As the legislation and its fruits becomes more entrenched and enshrined in Canadian society, a move toward less frequent comprehensive reviews may be appropriate. With that in mind, we would propose that the legislation, including Canada's progress toward implementation and achievement of these objectives, and including any regulations, standards, etc. that may be developed pursuant to the legislation, ought to be reviewed:

- annually during the first three years;
- biennially for the six years thereafter; and,
- and every four years thereafter.

## Quebec Network for Social Inclusion (QNSI), Marie-Andrée Gilbert

### Goal

**Accessibility:** ReQIS (Quebec Network for Social Inclusion) considers universal accessibility as “the characteristic of a product, process, service, information or environment that, for the sake of fairness and following an inclusive approach, allows anyone to carry out activities independently and to obtain identical results.”<sup>4</sup>

Communication accessibility is the element of universal accessibility that specifically concerns deaf and hard of hearing people:

**Barrier:** In the present context, an obstacle is a behavioural, architectural, communicational, organizational, political or systemic barrier that impedes the full social participation of the Deaf and the Disabled.

Communication accessibility must be thought out, developed and delivered for the sake of fairness and following an inclusive approach, not for the sake of individual accommodation. The elements that enable the implementation of communication accessibility include:

---

<sup>4</sup> Groupe Défi Accessibilité, 2012. *Accessibilité universelle : une nouvelle définition.* [www.societelogique.org/contenu?page=actualites&nID=21](http://www.societelogique.org/contenu?page=actualites&nID=21)

1. The presence of sign language interpreters and/or oral interpreters;
2. The dissemination of any information and public interest document in sign language;
3. The use and availability of communication technologies (closed captioning, sign language videos, VRS, etc.);
4. Responsibility for communication accessibility by institutions, organizations, bodies and event hosts in consultation with Deaf and Hard of hearing people.

“Implementation of communication accessibility cannot be based on Deaf and Hard of hearing people only.”<sup>5</sup>

### Format

Which approach would work best for you?

- The normative approach would be best suited since legislation should be a framework law without a possibility of revision in order to avoid a future government reducing its scope.

Should the government accept both or focus on one?

- Only on the normative approach by following the example of the standards of accessibility established by regulation in Part III on the AODA.

### Targets

The legislation should apply to any organization under federal jurisdiction.

### Barriers and Issues

What are the barriers and issues that this legislation should address?

Among the many problems and issues, the legislation should include:

- Official recognition of LSQ and ASL;
- Communication accessibility (closed captioning and interpretation services);
- Architectural accessibility.

The government has identified various barriers in areas where the law applies:

- built environment;
- employment;
- delivery of programs and services;
- transportation;

---

<sup>5</sup> Leduc, V., in collaboration with Marie-Hélène Couture and Catherine Marzella. 2015. To better understand the needs of deaf women and the issues they face. *Summary report. Montreal: The House of the Deaf Women of Montreal, 21 pages.*

- goods and services;
- information and communications

Would accessibility in other sectors be improved?

Among other areas for legislation:

### **Transportation:**

- Accessible entertainment with closed captioning for all movies;
- LSQ and ASL versions for safety messages (e.g. in airplane);
- Written announcements (e.g. names of next stops on land transport lines);
- Videos in LSQ and ASL on websites

### **Telecommunication:**

- Improve standards and practices in the quality of closed captioning;
- Provide LSQ and ASL interpretation medallions for national television programs (e.g., news bulletin);
- Expand the CRTC's authority to legislate the accessibility of Internet content (e.g., tou.tv) so that the contents are subtitled.

### **Services related to employment (Employment Insurance, etc.):**

- Videos in LSQ and ASL on websites;

- Operation of ATS lines (several irregularities have been identified).

### **The census**

- Inclusion of LSQ and ASL in the choice of languages;
- Videos in LSQ and ASL for the census questionnaire;
- Updating the form in consultation with persons who are Deaf and Hard of hearing in order to make corrections.

### **The elections**

- Provide adaptation of documents in LSQ and ASL. In future federal elections, these documents should be accessible on the Internet;
- Translation of the leaders' debates is not translated into LSQ and ASL;
- Visual adaptation of voice calls for voting.

### **Citizenship procedures**

- Provide information on immigration processes in ASL and LSQ;
- Offer interpreters to all Deaf and Hearing impaired persons within the same timeframes as for hearing persons for citizenship ceremonies.

Should the federal government draw on the experience of provincial and other governments, such as The Accessibility for Ontarians with Disabilities Act (AODA)?

- Yes

### Conformity

How can the government ensure that this new law is enforced and respected?

This new regulation will probably explain how compliance (enforcement) will be monitored. To do this, some of the following could be used:

- **Action plans:** Organizations would develop action plans describing how they will improve the accessibility of people with disabilities;
- **Progress Reports:** Organizations would report on their progress in improving accessibility;
- **Revisions and audits:** The federal government would inspect (verify) the progress made by an organization to improve its accessibility;
- **Complaint mechanisms:** The government may decide not to monitor compliance with the Accessibility Act, but to focus its efforts on dealing with complaints that people would file. This is the way human rights are currently being dealt with: you must file

a complaint with the Canadian Human Rights Commission to ensure your rights are respected

When a complaint is filed, there are different ways of enforcing the law:

- an informal or formal mediation process;
- public denunciation of organizations that do not respect the law on accessibility;
- orders to settle the matter and a timeline to comply with the rules;
- financial penalties.

In your opinion, could other measures or methods be considered by the government to ensure that the law is observed?

### Support

How could organizations be encouraged and supported in their efforts to improve accessibility?

The law could include measures to encourage organizations to improve accessibility and remove barriers such as:

- **Flexible rules:** fewer reports, more promotion and public recognition, or pecuniary benefits for companies demonstrating their leadership on accessibility;
- **Federal oversight:** the creation of federal center providing information and tools to help

organizations remove barriers to accessibility;

- **Financial support** or research to identify best practices for accessibility and removal of barriers.

Do you have any other ideas on what the government could do to help organizations remove barriers and improve accessibility?

- The government could provide an information guide, training, a specialized service (e.g., provided by the Disability Issues Office), and grants to improve architectural accessibility and communication accessibility.

Do you have any suggestions as to what the government might do to encourage organizations to show leadership in accessibility?

- The government could offer annual recognition awards to organizations that have demonstrated leadership on accessibility.

### **Effectiveness**

How can the government determine the act's effectiveness to remove barriers and improve accessibility?

- Through a survey of organizations of the Deaf and disabled as well as departmental organizations.

How often should the government report to Canadians on progress in accessibility?

- The government could produce a three-year report. The report should include concrete objectives, means to implement the objectives, a statement of results and possible solutions to remove barriers to the act's implementation.

How often should the act itself be revised?

- It should be reviewed at least every three years or at least according to the final report received and to make revisions.

## **Canadian Council on Rehabilitation and Work (CCRW), Maureen Haan**

### **The goal**

Specific to communication disabilities, accessibility needs to ensure all people have access to language. This includes written and signed languages.

Barriers around communication include the lack of funding to ensure an accessible Canada is more than just ramps, and also the societal barriers of the obliviousness of the general public on what barriers to people with communication disabilities

entails. For example, assuming a Deaf person can read and write English/French to the same level of their literacy with ASL, or that ASL is an inferior language to spoken language. These types of attitudinal barriers are the largest hurdle to the success of communication disability groups, and the most difficult to surmount.

---

**When it comes to employment for people with communication disabilities, it becomes a very difficult balance between the rights of the person with a disability and their access to information, and the right of the employer to run a successful, profitable business. It therefore behooves legislation to ensure any barriers to employment are lifted, so employers do not experience, or “hide” behind undue hardship.**

---

### **The format**

I believe both approaches are beneficial, however for employment, an outcome based approach will succeed more than a prescriptive approach. For example, if an employer is told their workforce must consist of 10% disability, an effort may be made to circumvent the legislation, or if the quota is not fulfilled, punitive action occurs and employers become more entrenched in their stance not to hire a person with a disability.

Therefore, it is a better approach to establish an outcome of an inclusive workplace to ensure onboarding and retention of people with disabilities.

With this in mind, there does need to be teeth behind the legislation, and therefore if outcomes are not reached, penalties must exist.

### **The targets**

Are there any other organizations or industries within federal jurisdiction that should be covered by this legislation?

- None to my knowledge.

### **The barriers and issues**

All areas need improved accessibility. Specific to employment, additional funding and support is needed to educate and work with employers to hire and retain people with disabilities.

CCRW has experience with employers and, while anecdotal, we realize that most employers haven't even thought about hiring a person with a disability. Therefore, getting the word out about the business case for hiring a person with a disability is critical to shifting the landscape. With this information needs to come supports. For example, a national disability accommodation fund should be established to support small to medium sized employers.

For communication disabilities, accommodations are not as simple as changing the built environment. Often, employers are shocked to learn the cost of ASL-English interpreters and/or captionists. The business case of accommodations being "often less than \$500" does not apply to this part of the disability community. Therefore, the language barrier needs to be accommodated with funding by the government instead of the employer alone.

Should the federal government build upon the experience of provincial governments and other countries? For example, the Accessibility for Ontarians with Disabilities Act (AODA).

- Absolutely, but the federal government needs to learn lessons from the experiences of those provincial governments and other countries.

## **Compliance**

I believe all the steps have been covered. However, it is important to note that the government must make the legislation a tool for employers to succeed, and not fail. Failure with the legislation will increase the likelihood of an employer not continuing to hire people with disabilities, and will see efforts put in place to negate the legislation. Supports must be part of the compliance process, in order to succeed.

## **Support**

As stated, an establishment of a national accommodation fund for small to medium sized employers is needed. Ongoing support from NGOs, funded by the government, is also critical to success with employment.

The government could encourage organizations to show accessibility leadership by creating an "employer disability confidence program", in which employers partake in various training courses to become certified. These employers will then be showcased.

## **Effectiveness**

How can the government know if this legislation is effective in removing barriers and improving accessibility?

- Research, research, research and funding for research.

How often should the government report to Canadians on the progress of accessibility?

- Every 4 years, as with the CRPD.

How often should the legislation itself be reviewed?

- No suggestions.

## COMMENTS FROM THE PARTNER ORGANIZATIONS

---

*The following comments from the partner organizations are presented without attribution and in random order (i.e., not in order of priority).*

- 1.** One of the issues that many people with disabilities face is that while the government has made efforts to improve the accessibility of public-interfacing services (including websites, thanks in part to the Jodhan case), the same attention has not been given to intranet and internal-use software or services, such as payroll, scheduling, etc.
- 2.** The CRTC has been doing a lot of good work, but their scope is limited – they do not regulate cable boxes, and have limited authority or power to govern over non-legacy broadcast mediums, and their power to enforce is limited: they have no authority to

fine broadcasters for not meeting accessibility goals or requirements.

- 3.** Legislation creation and insurance programs should not be alongside existing programs, i.e. not a replacement for them, nor a mechanism to fill existing program gaps. No federal program should impact the provincial one, and vice versa. It's essential to support programs that improve employment opportunities, and creating a national disability insurance program would improve the employment prospects of disabled Canadians.
- 4.** No new bills that are not accessible should be adopted. Have conversations with provincial/territorial officials about barriers in restaurants, schools, hospitals, retail stores,

---

Legislation creation and insurance programs should not be alongside existing programs, i.e. not a replacement for them, nor a mechanism to fill existing program gaps. No federal program should impact the provincial one, and vice versa. It's essential to support programs that improve employment opportunities, and creating a national disability insurance program would improve the employment prospects of disabled Canadians.

---



taxis, social assistance. The government should provide funding to the organizations that enable participation of the disability community in governance, policy-making, and legal challenges, including but not limited to the Court Challenges Program, the Broadcasting Participation Fund, and the Broadcasting Accessibility Fund. Moreover, a recognition that disability organizations have a wealth of experience, knowledge, and representative capacity should lead to increased “core funding” opportunities, to allow these organizations to operate on more than a pure voluntary basis.

- 5.** The new legislation will address matters in federal jurisdiction. Focus the conversation on remedying barriers found in such areas as banking, broadcasting, Employment Insurance, federal investments in affordable housing, the National Building Code, the Canada Health Act, federal taxes, the post office, cross-border passenger transportation (air, rail, marine, interprovincial bus), Aboriginal lands and rights, federal programs for women, criminal law, immigration, the national capital, official languages within the federal sphere, citizenship, voting in federal elections, and control of drugs. Barriers
- 6.** A properly designed insurance program would go a long way to address shortcomings with regard to health-care access for disabled Canadians, especially if these people are given a patient advocate as an entitlement for life (if they want one). That advocate can address all those issues and the system would change due to the pressure on it.
- 7.** A national insurance program could make access to inclusive telecommunication technologies an essential support service. The insurance program would stimulate innovation because of the demand that ensues.

in the aforementioned areas contribute to the poverty, isolation, discrimination, unemployment experienced by people with disabilities and Deaf and hard of hearing people, and sub-standard health care. For example, currently some groups of people with disabilities have access to publicly funded habilitation/rehabilitation services and others do not. Increased use of individualized funding should be implemented to give people with disabilities choice in the rehabilitation/habilitation they receive. An insurance program might include provision for access to legal counsel in some circumstances.

8. The Government of Canada should not just be delivering accessible information, but also delivering accessible services, such as online passport applications.
9. When it comes to transportation, the government must take steps to ensure the safety of girls and women with disabilities in public spaces. Transportation devices must be properly equipped to provide that protection, since these groups of people are particularly vulnerable.

---

## The proposed federal accessibility legislation must formally recognize American Sign Language (ASL) and la Langue des Signes Québécois (LSQ) as official languages of Canada, equal in every way to spoken/written English and French.

---

### 10. Pension Plan Disability

Employment exemptions should be increased to the level of LICO. CPPD should not be deducted from LTDI WCB, provincial income support or AISH or ODSP.

11. The Opportunities Fund for Persons with Disabilities should be expanded into an Opportunities Act. Rather than focusing on employment, it should focus on essential supports needed for people so that they could work to their fullest capability. An ability to maximize communication would be an essential support.
12. A national disability insurance is needed regardless of employment status.
13. A cornerstone support program for disabled people should not be an income program but a support program. An income program would go out and support services, but the people would remain poor. We need to focus on the special needs of people with disabilities.
14. When it comes to courts and printed materials for people with disabilities, there's a fundamental difficulty in the legal system, in that while the Court might by legislation be required to accommodate, other parties involved in the proceedings are somewhat out of reach. As a consequence, a self-respected litigant has no recourse against lawyers or other self-represented litigants who do not provide documents, court filings, etc. in an accessible format.

- 15.** There should be a national home-care strategy, national patient-care strategy, accessible and affordable care and long-term care facilities.
- 16.** The services of support for the Deaf should be the same as for the blind, Deaf/blind, etc.. There should not be any discrimination in services against various disabilities.
- 17.** Strategies and tools in the legislation could include: an omnibus approach (to reform existing legislation that continues to discriminate), procurement policies (use of federal purchasing power to encourage development of accessible products and services), and representative advisory committees (an avenue of input to government, agencies and government programs).
- 18.** The development and innovation in so-called set-top boxes (television cable boxes) pose a significant accessibility barrier for people with intellectual and vision disabilities. Regularly changing and inaccessible interfaces that do not permit customization of font size, colour contrast, etc., are real accessibility barriers, and currently CRTC has no regulatory authority or power over these devices.
- 19.** Gender and disability sensitivity training should be included in all elements of law enforcement (from courts to jails), and courts and law enforcement should be educated about Andrews, Eldridge, etc. Training should be effective, and mechanisms to monitor the progress and accountability should also be implemented.
- 20.** The idea that the only acceptable inclusion for a person with disabilities is full time employment and at least a minimum wage is a product of the 1970s when deinstitutionalization was launched – that world no longer exists.
- 21.** Provincial governments must be compelled to post their home care policies online, and the same applies to the mechanisms of appeals. It should also involve long-term development policies.
- 22.** The establishment of centres of excellence to monitor compliance and provide guidance to departments: a Commissioner of Accessibility and Inclusion (supplementing existing accountability mechanisms, conducting independent assessment of disability programs, and reporting directly to Parliament); an Accessibility Design and Communication Centre (supports federal

departments and agencies, proactively advising them on standards, barrier removal, and access to information for Deaf and hard of hearing people [ASL and LSQ videos, captioning, etc.] and could have standard enforcement responsibilities), Full Inclusion Policy Centre (addresses disability-related barriers in practices of federal departments, commissions and agencies).

- 23.** A percentage of all developments from private real estate developers should go to accessible accommodations managed and designed by people with disabilities, and it should be reinforced with regulations.

---

**When it comes to immigration, the “excessive demand” clause should be modified in a way to ensure that families are not turned down because one of the members has a disability.**

---

- 24.** Grants for students with permanent disabilities could be rolled into the insurance program as an entitlement, if needed.
- 25.** Closed captioning requirements should apply (equivalently) to video-audio description for the blind.
- 26.** Immigrants should be given proper technical and human assistance to access telecommunication services and systems in appropriate formats.
- 27.** Australian insurance programs have been one of its greatest benefits to society – Canada should use that experience.
- 28.** A national disability insurance strategy would stimulate accessibility and universal design research.

# PART IV: RECOMMENDATIONS FROM CAD-ASC AND THE PARTNERS

---

## What is the goal of the legislation?

Specific to communication disabilities, accessibility legislation needs to ensure that all people have access to language. This includes written and signed languages. In the case of written language, it includes simple (not so-called “plain”) language to accommodate the varied abilities of people with intellectual or developmental disabilities, language deprivation, and literacy skills development.

It is absolutely imperative that the legislation include official recognition of American Sign Language and Langue des Signes Québécois as equal to English and French. Without such recognition, there is no possibility of Deaf Canadians achieving true equality, accessibility, and opportunity. Language will continue to be a barrier to our full inclusion and participation in society until ASL and LSQ are made official languages.

Accordingly, the legislation must also recognize, support, protect, and promote the introduction of Sign language as the first and primary language of deaf children. It is their

right and their need to be exposed to the visual language that is the easiest and quickest for them to learn without delays in order to ensure their brains are wired for language.

Early intervention programs across Canada currently fail to provide adequate and meaningful Sign language programming in ASL and LSQ for families with babies and infants identified to have a hearing loss of 30 db or more. The negative effects of language deprivation in Sign can exacerbate the historical disadvantage faced by Deaf people in society; deafness itself does not create social, cognitive and psychological effects, it is language deprivation that does so.

The legislation needs to do more than just levelling the playing-field by removing barriers and promoting opportunities; it also needs to provide PWD and Deaf people with the tools to participate equally. For example, it is not enough to mandate equality of opportunity if we are not also provided with the supports (including financial supports) to respond to these opportunities.

When the United States passed the Americans with Disabilities Act into

---

**Early intervention programs across Canada currently fail to provide adequate and meaningful Sign language programming in ASL and LSQ for families with babies and infants identified to have a hearing loss of 30 db or more. The negative effects of language deprivation in Sign can exacerbate the historical disadvantage faced by Deaf people in society; deafness itself does not create social, cognitive and psychological effects, it is language deprivation that does so.**

---



law, Canada's disability community was impelled to review Canada's situation and compare it to the game-changing impact the ADA would have in the USA. Throughout the 1990s and the first decade of the 21st century, the conclusion was that Canada already had much of the legislative framework in place – e.g., accessible transportation was mandated under the Canadian Transportation Agency, accessible telecommunication was mandated under the Telecommunications Act, and much else was mandated under the Canadian Charter of Rights and Freedoms. What was lacking, we found, was the political will and legal mechanisms to enforce the legislation. The proposed new Federal Accessibility Legislation absolutely must include provisions for enforcement. It must take the same approach as the ADA, to wit: “Do it, without prevarication.”

CAD-ASC and its partnering organizations recognize the need for definitions in relation to the goal. The terms “accessibility”, “inclusion”, and “participation” each have different meanings for different groups. This difference can be most easily seen in relation to education (although a provincial responsibility, education is a topic that resonates federally). For Deaf people, the most accessible, inclusive, and equal environment for education is one in which all students, teachers, and

administrative personnel (regardless of their own hearing or deafness status) use Sign as the first language, including as the language of instruction; this environment is currently found only in provincial schools for the Deaf. In the view of people with almost all other kinds of disabilities, however, such an environment smacks of segregation, exclusion, and isolation. Therefore we recommend that the terms utilized in the legislation must be developed collaboratively by the communities, not handed down by bureaucratic fiat.

The following comments are taken from submissions from our partnering organizations. They demonstrate the varied interpretations and the wide range to which the terms “accessibility” and “barriers” can apply:

- Barriers around communication include the lack of funding to ensure an accessible Canada is more than just ramps, and also the societal barriers of the obliviousness of the general public on what barriers to people with communication disabilities entail. For example, assuming a Deaf person can read and write English/French to the same level of their literacy with ASL/LSQ, or that ASL/LSQ is an inferior language to spoken language. These types of attitudinal barriers are

the largest hurdle to the success of communication disability groups, and the most difficult to surmount.

- When it comes to employment for people with communication disabilities, it becomes a very difficult balance between the rights of the person with a disability and their access to information, and the right of the employer to run a successful, profitable business.
- Accessibility is about having independent and autonomous access to information, products, and services in a manner which is respectful and accommodating of the various mechanisms by which such access may be achieved by different individuals, regardless of their abilities or disabilities. Barriers include any construction external to the individual, be it physical, attitudinal, systemic, regulatory, or policy-based, which renders it impossible or more difficult for a person with a disability to access that information, product, or service, or to make independent decisions, as compared with any other member of society.

Accessibility means:

- Access to information (TV and online captions, education, airport flight gate information, etc.)

- Access to services (not-for-profit, for-profit, non-government organization, government) by providing interpreters (in-person or relay), video-phones, voice-to-text machines, etc.
- Access to ensure the ability to serve on committees [and] other bodies
- Access to higher education, employment advancement.

Barriers means:

- Not providing the access as listed above
- No funding for career and education advancements
- Lack of education and advancement due to systemic barriers in the education system
- Information on websites, brochures, etc. that uses excessive text and/or jargon with no compatible ASL/LSQ formats.
- Automatic phone tree systems that set non-English or non-French users at a disadvantage
- Government agencies not accepting calls through Video Relay Service

**Accessibility** — Can I use it?

Is it something I can deal with independently? These questions show accessibility.

**Barriers** — The potential for significant differences in the

landscape that can affect how people are treated—e.g.: service animal laws.

Accessibility and inclusion have focused more on society and society's response to persons with disabilities but in doing so take away from the discussion about what people need in order for them to participate to the fullest of their ability. We 'handicap' persons with disabilities by not providing essential supports and then ask society to include them and wonder why it is not working as well as it could.

We wish to emphasize the need for more mental health programs and services that are fully accessible for PWD and Deaf persons. Existing mental health programs provide at least two sets of barriers for persons with communication differences: (1) They are, simply, unable to accommodate different communication avenues such as those used by people who are Deaf, Deaf-blind, intellectually or developmentally delayed, language deprived, struggling with literacy, and so on. (2) They are staffed by people with limited or no personal experience with these kinds of differences and the effects such differences can have on an individual's mental health. Imagine, for example, a Deaf individual trying to express her relationship-rooted depression via writing notes back and forth in her second language

with a practitioner who has never met a Deaf person before and has no personal understanding of how her deafness might factor into the patient's relationships.

As our partner and colleague Dr. Cathy Chovaz (University of Western Ontario) stated, deafness and other communication disabilities do not in themselves cause mental health disorders: rather, they place one significantly at risk for mental health disorders. In her critique of the draft version of this Final Report, she writes:

These risk factors may include genetics, co-morbidities, inadequate language exposure and acquisition, lack of incidental learning, lack of peer modelling, differences in attachment, differences in the development of theory of mind and differences in the understanding of relationship representations. Ineffective education placements, isolation, lack of employment opportunities, and inaccessible health and mental health care can all further contribute to the development of mental health disorders.

This means then that a significant number of Deaf Canadians [and Canadians with communication disabilities] will have even further difficulties navigating through life due to the effects of less than optimal mental health functioning.

### **Recommendation #1**

The legislation must recognize American Sign Language and la Langue des Signes Québécois as official languages equal to English and French.

### **Recommendation #2**

The legislation must guarantee that babies and infants who are diagnosed as deaf, along with their families, will be immediately and continuously provided with exposure to, support in, and training in the acquisition of visual languages (American Sign Language and/or Langue des Signes Québécois). At a minimum, the support the deaf children receive in acquiring ASL/LSQ as a first language must be equal to the support they receive in acquiring spoken/written language including English and/or French. The federal government must embrace responsibility for enforcing this provision with every provincial and territorial government.

### **Recommendation #3**

The legislation must mandate full communication accessibility, including simple language and alternative media.

### **Recommendation #4**

The legislation must include provisions for enforcement.

### **Recommendation #5**

The terminology utilized in the legislation must be developed and defined collaboratively by the communities of PWD and Deaf persons, not by the government alone.

### **Recommendation #6**

Special consideration must be given in the legislation to ensure the development and support of mental health programs and services specifically targeted to persons with communication disabilities and Deaf persons. This should include a component aimed at recruiting and sponsoring such persons themselves to become qualified mental health professionals and practitioners.

### **What approach should the legislation take to improve accessibility and remove barriers?**

Most of the partner organizations in our project advocate a hybrid approach; however, the prescriptive approach should carry more weight, and if only one approach is used in any particular case, it should be the prescriptive approach. The Canadian Association of the Deaf – Association des Sourds du Canada agrees with this stance.

There is a serious weakness to the outcome-based approach. As the Deaf Literacy Initiative expressed it: “It’s never a good idea to set out objectives and let others set up

their own way of reaching those objectives, simply because it leads to confusion and no set standards are the same. One place may be more accessible whereas the next location may have weaker objectives.”

In the case of employment, as an example, a hybrid approach would set the outcome of reducing the unemployment rate of PWD and Deaf persons, and would use prescriptive measures to implement this goal. Such an approach might be the best chance of avoiding a replication of what happened when the Employment Equity Act was introduced in 1995, i.e., employers subject to the EEA immediately began classifying as “disabled employees” anyone with a mild food allergy, a limp (even a temporary one), or eyeglasses, in an attempt to inflate their numbers and make it appear the employers were already exceeding the desired outcomes. They were not subjected to penalties for such deceptive actions, and if anyone wanted to call them on it, that individual had to file a complaint that was essentially useless and placed all the onus of enforcement upon the private individual.

Outcomes need to further the goal of increasing accessibility and removing barriers, particularly as regards to the independence and autonomy criteria. True equality is not achieved by making the PWD

or Deaf person dependent upon others. For example, the use of simple language and basic-level graphics in printed information provides accessibility for people with language or literacy skills difficulties; they should not need to be dependent upon an aide who can render the printed information into terms they can more easily grasp.

The broadcasting and telecom sectors provide a 40-year history lesson that a voluntary approach – i.e., an approach that does not include mandatory (prescriptive) goals and a determined enforcement mechanism – never succeeds. CAD-ASC has had to fight tooth and nail over decades to achieve each incremental step towards accessibility in the telecom sector. To take one example, in the early 1990s we had to file separate petitions to the CRTC on a province-by-province basis over a period of three years in order to achieve the first text telephone relay service because the phone companies fought us every step of the way. In regards to television, we had to take each broadcaster before a Human Rights Tribunal – again, one at a time over a period of years – in order to force them to concede that they could provide captioning for all of their broadcast programming without suffering “undue hardship”. The proposed federal accessibility legislation has to eliminate the need for

---

True equality is not achieved by making the PWD or Deaf person dependent upon others. For example, the use of simple language and basic-level graphics in printed information provides accessibility for people with language or literacy skills difficulties; they should not need to be dependent upon an aide who can render the printed information into terms they can more easily grasp.

---



such onerous, time-consuming, exhausting, and expensive efforts to get our basic human rights and accessibility rights enforced.

When ASL and LSQ are recognized as official languages in Canada, the desired outcome will be to achieve greater accessibility and equality for Deaf people. But prescriptive tools will be required to ensure the actual achievement of this outcome. Requiring the provision of Sign language interpreters is pointless unless it includes mandatory standards such as membership in the professional associations for interpreters (AVLIC and/or AQILS), graduation from a recognized and reputable interpreter training program, and a skill test such as the Certificate Of Interpretation – otherwise the Deaf community will be given unqualified, self-proclaimed “interpreters” who in fact have only taken a couple of night-school classes in fingerspelling. This is not an exaggeration: it is what has actually happened at some public events and in the schools, simply because the institutions subject to the legislation will grab whichever proffered services are cheapest regardless of qualifications.

### **Recommendation #7**

The legislation should take a hybrid approach in which the prescriptive

outweighs the outcome-based. It should not take a complaints-based approach.

### **Recommendation #8**

Outcomes need to include independence and autonomy; i.e., they should not have the effect of making PWD and Deaf persons dependent upon others.

### **Recommendation #9**

Outcomes must include standards by which to implement the goal of accessibility and barrier removal. The attitude of, for example, “any captioning is better than no captioning” is unacceptable because it does not set standards of quality of accessibility measures (only measurably good captioning is better than no captioning).

### **Who should be covered by the legislation?**

All organizations and industries which fall within federal jurisdiction should be covered by this legislation. In addition to the list provided in the Discussion Guide, all entities and organizations – for-profit, not-for-profit, individuals, corporations, and otherwise – which receive, directly or indirectly, government funds (through grant opportunities, RFPs, procurement of goods or services, etc.) should be subject to the requirements of the Act.

For example, Heritage Canada provides support for organizations and publishers through the Canada Book Fund to “ensure access to a diverse range of Canadian-authored books nationally and internationally”. If such a grant is used to support the publishing of a book, compliance with the new legislation ought to require that the book be made available in alternative formats (large print, e-text, braille, etc.) for persons with disabilities, too.

Two years ago, CAD-ASC launched a social enterprise called “Open Up!” in which we offered to provide ASL-LSQ video versions of important health information on the websites of major charities involved in health and safety concerns. Nearly all of these organizations receive direct funding from the federal government. Yet none of them were willing to spend any of that money to make their information accessible. These were not small, PWD consumers groups; they were the wealthiest, the largest, and the highest-profile “disease organizations” with budgets in the multi-million-dollar levels. The only ones that partnered with us were six that did so because we were able to cover all costs with our own federal project funding – the organizations did not contribute one dime of their own beyond their “in-kind” donation of time. As the Eldridge court decision stated explicitly, any service that receives federal funding – even

if indirectly – must comply with federal accessibility requirements. Despite several complaints from CAD-ASC to ESDC, no action was ever taken by the government to even inquire into the question of why these federally-supported health associations were allowed to ignore accessibility laws.

The official recognition of ASL and LSQ which must be an integral part of the federal accessibility legislation needs to apply in exactly the same way bilingualism legislation (English and French) applies, which is to say, across the board. It must be supported by explicit mandatory measurements for implementation. In January-February of 2017, we saw once again just how easy it is for even a federal regulatory agency to skirt the legal, court-mandated requirements for accessibility: the CRTC refused multiple requests from several Deaf people to provide interpreters for a week-long proceeding, arguing that the court decision in *Canadian Association of the Deaf v Canada (2007)* permitted the CRTC to provide after-the-fact written transcripts as an “equivalent” accessibility service (which, incidentally, is an incorrect legal interpretation of the written decision). After-the-fact written transcripts are in no way at all “equivalent” to full and equal access to a “live” proceeding, especially for Deaf Canadians whose first

language is ASL or LSQ (i.e., not written English or French). The new federal accessibility legislation needs to make it absolutely clear that the Deaf person and/or the person with the disability is the one who decides what tool provides him/her with accessibility.

### **Recommendation #10**

All organizations and industries which fall within federal jurisdiction should be covered by this legislation.

In addition, all entities and organizations – for-profit, not-for-profit, individuals, corporations, and otherwise – which receive, directly or indirectly, government funds (through grant opportunities, RFPs, procurement of goods or services, etc.) should be subject to the requirements of the Act.

---

### **Recommendation #11**

**The legislation must clearly state that the Deaf person or the person with the disability is the one who decides what tool provides him/her with accessibility.**

---

### **What accessibility barriers and issues should the legislation address?**

The simple answer is that all areas need to be included in the legislation, and that all areas are of equal priority.

But merely listing areas to address does not get at our fundamental concern about communication. In this project report, we have included a section describing “the communications lens” and how it can be applied to, as one example, the built environment (see Part II, section 2 above). The six areas suggested in the Discussion Guide each needs to have the communications lens applied to them. What good is a physically accessible built environment or program/service delivery outlet or government information if it does not include simple language and tactile media to make it accessible for people with communication disabilities?

Our partner organizations, and the CAD-ASC itself, all have commented on the issue of funding for the removal of barriers. The legislation, while it may not necessarily encompass or be presented as a financial bill in Parliament, must address the funding gap. Employers are shocked to learn the cost of ASL-English interpreters, Deaf-blind intervenors, captionists, and other communication facilitators. The

business case of accommodations being “often less than \$500” does not apply to those with communication needs. Barriers need to be removed with funding from the government instead of the employer alone.

As a related example, one of our partner organizations draws attention to disparities in the way DeafBlind Canadians are supported in the medical and rehabilitation fields as they transition to changes in their vision. Those who have changing or decreasing vision are referred to the Canadian National Institute for the Blind for the professional services necessary to transition to and rehab for their new reality. The CNIB does not receive government funding to provide these rehabilitation services; they are funded mainly through grants and donations. The CNIB (in Alberta, for example) also cannot pay for interpreters for DeafBlind persons to take classes in Braille, because the current funding model does not support this service.

In short, a key issue that the legislation must address is the need for a federal funding mechanism to assist in removing, alleviating, or otherwise minimizing the costs of disability accommodation for all those goods, services, and businesses that will be affected by the federal accessibility legislation. There must also, however, be limitations as to who may tap

into this mechanism. For-profit corporations bidding for federal contracts (and the government’s own departments, services, and programs) must use their own revenues to pay the full costs of accessibility and not apply to the suggested funding mechanism to absolve themselves of their financial and social responsibilities.

One partnering organization, the Every Canadian Counts Coalition, believes that the most effective way of delivering this kind of federal accessibility funding is by providing it through an entitlement-based national disability insurance program. The essential difference between such an insurance program and a federal accessibility funding supports program is that the former would put the funds into the hands of the person with the disability rather than into the needs of the institution, company, or service provider.

On the question of whether the Government of Canada should utilize an advisory council and/or consultations, CAD-ASC believes that neither is likely to be fully successful. The impossibility of establishing an advisory council that satisfies everyone is demonstrated by the ongoing issue of which disability organizations should be receiving (or be eligible for) funding from the Office of Disability Issues. From a list originally of 17 organizations

involved in the ODI programs, a contact list of participating or advisory groups has ballooned to over 70, and still others vociferously complain that they are being left out in the cold. It has proven impossible for the 70-group “stakeholder” consultations to be managed coherently even in the matter of arranging a conference call. How would a 70-person advisory council operate? Yet even to limit it to the original 17 (now apparently 18) organizations would provoke bitterness and exclusion amongst those not included.

Consultations may be a way to broaden the range of participants, but they can be extremely difficult and complex to organize and implement. CAD-ASC representatives have been frustrated by the inequities of trying to participate in a speech-based conference when we are reliant upon interpreters who create an inescapable time-lag; organizations representing persons with developmental, language, or literacy disabilities cannot participate equally when the discussion is full of university-level talk and government jargon; blind and deafblind persons often do not have equal access to the same fulsome documents as are made available in print versions. The government may wish to consider staging consultations set-up exclusively for each of these groups, e.g., a deafblind-only meeting, a developmentally-delayed-only

meeting, and so on ... but then we are in the conundrum of segregating those with communication disabilities and language differences from those with other disabilities, instead of building alliances amongst them.

As regards the interaction between the federal accessibility legislation and existing human rights and accessibility laws, we argue that accessibility is a human right, as confirmed in the Canadian Charter of Rights and Freedoms and in the various Human Rights Acts across the country, not to mention the United Nations Convention on the Rights of Persons with Disabilities. The new legislation must be treated as a fully equal part of these existing legislations. One law cannot trump the other, because they are the same in defining accessibility as a right. The new legislation must make this integral relationship explicit in its preamble.

We agree that the legislation should build upon accessibility standards already developed by provincial/territorial governments and other countries. In the case of the latter, care must be taken not to simply adopt the standards that are functioning in other countries and apply them to Canada willy-nilly; we are a unique country and there is no law or legislation in any other country that can be transplanted into this one without adaptation and changes.

### **Recommendation #12**

Tools to address accessibility barriers and issues must include the communications lens, not just “universal design”.

### **Recommendation #13**

The legislation should create a federal funding mechanism to assist in removing, alleviating, or otherwise minimizing the costs of disability accommodation for all those goods, services, and businesses that will be affected by the legislation, with restrictions as to which bodies may apply for such funding, i.e., for-profit enterprises and government programs are not eligible to apply. (See *also Recommendation #20 below.*)

### **Recommendation #14**

Accessibility rights are human rights. The new federal accessibility legislation must be integrated, not competitive, with existing legislation such as the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act.

### **Recommendation #15**

The legislation should take cognizance of accessibility standards already developed by provincial/territorial governments and other countries without being bound by them.

### **How should compliance with the legislation be monitored and enforced?**

CAD-ASC and our partnering organizations believe that action plans, progress reports, and reviews/audits can all be very useful and productive tools for monitoring the legislation. We would only caution that any one of these tools, let alone all three of them together, inevitably entail a mountain of documentation at both ends (i.e., both the monitored entity and the monitoring entity), burning up resources of time, human capital, and energy.

Perhaps the method that would inflict the least burden upon everyone would be random unannounced audits. This would elicit a true picture of the target’s accessibility, not one self-reported or manufactured temporarily to deceive the monitor during a regularly-scheduled visit. This approach could then require the monitored body to file an action plan to redress any deficiencies. Progress reports would not be required in this scheme; another unannounced audit would take stock of the implementation of the action plan.

The one approach to monitoring that we do not support is complaint-based. This has been used by the CRTC, and while it will proclaim its Commissioner for Complaints for Telecommunications Services

to be a great success, the truth is that for the consumer in general, and the consumer with a disability in particular, it is a complete flop. The CCTS will not even accept complaints related to accessibility, arguing that it is not mandated to handle such issues and that they are better addressed to the CRTC itself.

The complaints process seldom has any real structural impact. Complaints are handled and decided on a case-by-case basis; this means, at best, one person is mollified and a precedent may be set for the resolution of future individual complaints on the same topic; but the systemic issue remains unmoved. Furthermore, the entire onus of monitoring non-compliance and calling the perpetrator on it falls upon the private individual. As a rule, PWD and Deaf people do not have the personal resources to pursue this route. The complaints method is contrary to the goals of the accessibility legislation, which is to improve accessibility and remove barriers; if that is achieved only retroactively by correcting wrongs that have already been done, then the legislation will have failed to achieve what it set out to do.

Non-compliance must be met with enforcement. No agency should be in a position to carry the same unfulfilled accessibility “action plan” items for years on end without

consequences, as has happened under the Employment Equity Act.

There needs to be an independent monitoring body: after all, the federal government itself will be the largest single “target” of a federal accessibility legislation, therefore it would certainly not be appropriate for it to self-police. We recognize the apparent contradiction between being an independent monitoring body and yet being funded by the government; this awkward relationship already does exist in virtually all monitoring/regulatory agencies now, so CAD-ASC does not consider it a major concern, particularly if the monitoring body is designed in the manner which we will suggest later in this answer. Several of our partnering organizations prefer that the monitoring agency should not be government-funded but should be funded by members (and presumably through monetary penalties to violators).

Because CAD-ASC believes accessibility rights are seamlessly integral to human rights, it would appear the logical choice for a monitoring body would be the Canadian Human Rights Commission. If this is accepted, then the CHRC will need to be provided with substantial new dedicated funding; and this new department within it must be staffed entirely by persons with disabilities and Deaf persons.

If PSAC and/or union agreements make it impossible for the CHRC to hire only PWD and Deaf persons for the monitoring program, then CAD-ASC argues for a new regulatory agency to be created separately from the CHRC. We are a pro-union organization, but we are adamant that the monitoring of the federal accessibility legislation can and must be done exclusively by persons with disabilities and Deaf persons.

Enforcement should include orders of compliance and monetary penalties. Mediation is not favoured by CAD-ASC; it is too rooted in the complaints procedure which we have already stated we do not support. Public reporting has little or no effect upon violators; although “social media shaming” (a form of public reporting) may be effective in the short run, it is already running out of steam and has led to pushback and retaliation from its targets; it is also too easily subjected to misuse, groundless attacks, and personal vendettas.

### **Recommendation #16**

We recommend random unannounced audits to measure compliance with the legislation, rather than action plans, progress reports, or scheduled reviews/audits. We oppose a complaints-based monitoring approach.

### **Recommendation #17**

Non-compliance must be met with enforcement including orders of compliance and monetary penalties.

### **Recommendation #18**

The legislation should create an independent monitoring body entirely administered and staffed by persons with disabilities and Deaf persons. The alternative is to assign monitoring responsibilities to the Canadian Human Rights Commission with new dedicated funding to establish a program staffed entirely by persons with disabilities and Deaf persons.

### **How should organizations be supported to improve accessibility?**

We must open this section by asking what exactly is meant by “organizations”. Does it refer to the stakeholder groups of citizens with disabilities and Deaf citizens, such as those participating in our project, and the CAD-ASC itself? Does it refer to the entities that would be covered by the legislation, such as government programs and services, Crown corporations, etc.? Or does it refer to groupings within Canadian society as a whole, such as for-profit businesses, PWD organizations, and government programs?

If the term refers to stakeholder groups such as CAD-ASC, we

believe the funding that is currently channeled to them through the Office of Disability Issues must definitely be increased because they play a key role in developing, implementing, and monitoring the legislation. Its objectives are their objectives. The funding for ODI programs has remained stable for many years; meanwhile, the cost of our work has increased dramatically. Now we (stakeholders) are being asked to take on additional responsibilities in relation to the federal accessibility legislation – responsibilities that most of us want and accept – and we cannot do a proper job without increases in our funding.

Moreover, as noted elsewhere in this section, the number of such organizations that need to be included in the initiative has grown far beyond the “original 18”. Most of the later groups receive no funding or very little funding. The pot simply must grow larger if the legislation is to be effective.

We do not agree with the idea of “rewarding” organizations “that show accessibility leadership”. Who decides? On what criteria? On what kind of timeline? We have mentioned that CAD-ASC’s leadership in advocating for accessible telecommunications has been ongoing for decades: does this mean we are so ineffective that it took us 20 years to get 100

percent captioning of television programming and therefore we should not be “rewarded” for our achievement? Who decides we should be honoured for promoting ASL and LSQ – some non-Deaf people who have never learned Sign language? How will you evaluate one of our accomplishments in Deaf rights in comparison to the Canadian Council on Rehabilitation and Work’s accomplishments in the employment of persons with disabilities, or DAWN’s accomplishments in advocating for women with disabilities?

All organizations of persons with disabilities and Deaf people have very low financial status; they all need funding. Most of them do not have notable sources of funding other than governments. In contrast, service agencies earn revenues on services and provincial government contracts; they do not have nearly the same need for federal funding and therefore should be no more eligible for federal accessibility funding than for-profit organizations, educational institutions, and hospitals.

CAD-ASC agrees with the majority of our partner organizations that a separate fund should be created to help all of Canadian society achieve greater accessibility and the removal of barriers. We believe the current Enabling Accessibility

Fund is unproductive, elitist, and vulnerable to “pork-barrel politics”. It should be closed down and its funding should be used to set up a national accommodation fund to assist small-to-medium businesses in meeting their costs of accommodation, including Sign language interpreters, Deafblind intervenors, and so on – i.e., the provision of ongoing services, not just renovations to the built environment. Our partner organization, DAWN Canada, has suggested that shelters and transition houses should still be eligible for EAF-style funding to attain physical accessibility; as these are not commercial enterprises, they do need some funding program to which they can apply.

Some of our partner organizations recommend the creation of a centre of expertise (and the funding to support the same) to develop and communicate best practices, training materials, etc., with two caveats: (1) The centre of expertise should not be seen as the only avenue through which accessibility initiatives may be delivered; (2) Citizens with disabilities and Deaf people must themselves be integrally involved in developing, testing, and approving these initiatives. CAD-ASC’s position is that such a centre must in fact be entirely run by Canadians with disabilities and Deaf Canadians. It should be “of” us, not “for” us.

### **Recommendation #19**

The Office of Disability Issues must be provided with increases in funding to enable the disability and Deaf organizations to carry out their work in removing barriers and promoting accessibility.

### **Recommendation #20**

As per Recommendation #13 above, the Enabling Accessibility Fund should be closed and its funding transferred to a new national accommodation fund mandated by the legislation to assist small-to-medium businesses and non-commercial services such as shelters and transition houses in meeting the costs of accommodation that includes ongoing support services, not solely renovations to the built environment.

### **Recommendation #21**

If the legislation creates a centre of expertise, the centre must be entirely run by Canadians with disabilities and Deaf Canadians.

### **How will we know if this legislation is effective in improving accessibility and removing barriers?**

CAD-ASC and its partner organizations suggest that there should be a comprehensive Performance Report based on outcomes achieved. CAD-ASC, however, is adamant that self-

reporting is not the way to go! The Performance Report should be developed by persons with disabilities and Deaf persons; it should include our own “communications lens” as a measure of accessibility for people with communication disabilities (i.e., it must not be rooted only in so-called “universal design” principles because those are too negligent of the real-life needs of people with communication disabilities and language differences); and it should be applied by teams of persons with differing disabilities and Deaf persons who have no connection with the entity being reviewed.

We have no consensus on the question of how often the government should report to Canadians on the effectiveness and progress of the legislation. Suggestions from our partners range from “every four years” to “every three months”, and even to an open-ended “always open” portal where the public could file its own comments/reports at any time. CAD-ASC believes the example of the AODA proves that languidly-paced reporting periods leads inevitably to languidly-paced progress; anything less than annual reports will fail to drive the accessibility bus down the highway. We also support the suggestion of an “always open” portal to allow the public to be part of the assessment process.

Our partner organizations also did not reach a consensus on how often the legislation itself should be reviewed. Suggestions ranged from annually to every five years. We feel the best suggestion was offered by Media Access Canada:

- annually during the first three years;
- biennially for the six years thereafter;
- every four years thereafter.

### **Recommendation #22**

The legislation should mandate the use of a comprehensive Performance Report based on outcomes achieved; it must not, however, be a self-reporting exercise, rather it should be utilized by the independent monitoring team as per Recommendation #18 above.

### **Recommendation #23**

There should be an “always open” portal to allow the public to be involved in the compliance assessment process.

### **Recommendation #24**

The legislation itself should be reviewed annually in the first three years, biannually for the next six years, and every four years thereafter.

---

All organizations of persons with disabilities and Deaf people have very low financial status; they all need funding. Most of them do not have notable sources of funding other than governments. In contrast, service agencies earn revenues on services and provincial government contracts; they do not have nearly the same need for federal funding and therefore should be no more eligible for federal accessibility funding than for-profit organizations, educational institutions, and hospitals.

---



# ACKNOWLEDGEMENTS

---

This project is funded in part by the Government of Canada's Office of Disability Issues, Employment and Social Development Canada. We are very grateful for their support.

The opinions and interpretations in this publication are those of the authors and do not necessarily reflect those of the Government of Canada.

We thank each of our partner organizations for their support, participation, and assistance in this project.

We also wish to thank the Board of Directors of the CAD-ASC, especially the president Frank Folino, and the staff for their hard work and dedication to the success of this project.

# ABOUT THE ORGANIZATION

---

The Canadian Association of the Deaf - Association des Sourds du Canada (CAD-ASC) is the national consumer organization of Deaf people in Canada. Founded in 1940, it is Canada's oldest national disabled persons association.

CAD-ASC promotes and protects the needs, rights, and concerns of Deaf

people in Canada, in particular those who are culturally and linguistically Deaf and who prefer to communicate through Sign language.

We combine the purposes of a research and information centre, advisory council, representative body, self-help society, and community action group.

# PROJECT PARTNER ORGANIZATIONS

---

- Council of Canadians with Disabilities
- Canadian Council on Rehabilitation and Work
- Canadian Deaf-Blind Association
- Media Access Canada
- Association of Visual Language Interpreters of Canada
- Réseau Québécoise pour l'inclusion Sociale des Personnes Sourdes et Malentendantes
- People First of Canada
- DisAbled Women's Network
- Mental Health Commission of Canada
- Alliance for Equality of Blind Canadians
- Canadian Federation of the Blind
- Canadian National Society for the Deaf-Blind
- Canadian Down Syndrome Society
- Canadian Mental Health Association
- Every Canadian Counts Coalition
- Dr. Kristin Snoddon, Carleton University
- Dr. Cathy Chovaz, University of Western Ontario
- Deaf Literacy Initiative
- Alberta Society of the Deaf-Blind
- Greater Vancouver Association of the Deaf
- Alberta Association of the Deaf
- Saskatchewan Deaf Association
- Manitoba Deaf Association
- Ontario Association of the Deaf
- Association Ontarienne des Sourd(e)s Francophones
- Société Culturelle Québécoise des Sourds
- Newfoundland and Labrador Association of the Deaf
- Deaf and Hard of Hearing Youth Association of Nova Scotia
- Deaf Youth Canada

Canadian  
Association of the Deaf



Association  
des Sourds du Canada