

BC Accessibility through Legislation – Formal Submission

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CAPER-BC provides accessible learning and teaching materials to students and instructors who cannot use conventional print because of disabilities. Funded by the BC Ministry of Advanced Education, Skills & Training to work with post-secondary institutions throughout the province of British Columbia, CAPER-BC fulfilled 5,442 requests in 2018/19 for alternate format educational materials for 1,901 students with print disabilities pursuing post-secondary education and training¹.

Working with disabled students pursuing higher education, as resource and service providers, CAPER-BC has both a professional interest in the proposed BC Accessibility Legislation and unique insight into the current landscape of accessibility in the province.

Importance of Accessibility Legislation for BC

The most important aspect of accessibility legislation for BC is pursuing an evidence-based approach to reducing systemic barriers to access that impair the ability of people with disabilities to participate fully in society. This approach must strive to ensure equity in access and reduce discrepancies that currently exist throughout the province. The legislation must also “have teeth”, in the sense that there should be mechanisms for monitoring adherence and consequences for failing to meet requirements.

In our work at CAPER-BC, we observe how the lack of accessible print and digital information impacts disabled individuals every day. For example, the ability to access educational materials is one key to success for students pursuing higher education. However, not all material is currently produced in a manner that is accessible via assistive technology, whether the producer is an educational institution or a for-profit publisher. Legislation requiring all producers of such information to provide an accessible format that meets basic minimum standards will help reduce the barriers that currently exist and ensure that all students can gain access to information necessary for their education in a timely manner and in a format that works for them.

Model and Scope of Legislation

The proposed model for legislation seems to tie any BC legislation appropriately in with federal accessibility legislation and international conventions in order to promote clarity across jurisdictions.

¹ CAPER-BC. (2019). Annual Report [PDF file]. Retrieved from <https://caperbc.ca/about-us/reports/>

In the case of information and communications, it is helpful to focus on accessibility and inclusion with the understanding that not all information can be presented in a single format that will be accessible to all people. While there may be minimum accessibility standards developed to remove barriers for as many people as possible, standards should also encompass the understanding that accessibility may be achieved through providing multiple formats or multiple methods of access.

When considering the scope of the legislation, it is good to include as broad a definition as possible, encompassing an understanding of the episodic nature of many disabilities. The definitions of disability from the Accessible Canada Act and the UNCRPD are comprehensive, and provide clarity of scope by highlighting the impact of societal barriers on the nature of disability.

Purposes and Principles of Legislation

The stated purposes and principles are clear, concise, and comprehensive. Ensuring there are adequate mechanisms in place to track progress toward accessibility goals is essential for accountability. However, it is also important to provide clear goals as well as the support necessary to achieve those goals. Codifying adaptability and self-determination as principles guiding the legislation highlights the importance of flexibility to accessibility, and demonstrates an understanding that individuals are the experts in their own accessibility needs. Overall, the suggested framework displays a nuanced understanding of the complementary nature of human rights and accessibility legislation and the intersectional nature of disability and other aspects of an individual's lived experience.

Approach to Accessibility Standards

The suggested approach to accessibility standards seems in line with what is currently in place in other jurisdictions, however we recommend adding a separate standard for education in order to address properly the importance of equitable access to all levels of education. While no other jurisdictions have currently implemented a standard exclusively covering education, Ontario and Nova Scotia are in the development process with committee work underway to determine what stand-alone education standards might encompass. Including an education standard at the outset of the legislative process will allow BC to reduce the amount of time needed to develop and implement a stand-alone education standard, and reflect the importance of accessible education for British Columbians. Education persistence and completion is a predictor of success in the workforce, and improving rates of higher educational attainment is key to breaking the cycle of underemployment and poverty in those members of the disabled population that have the desire and ability to pursue employment.

Currently, the impacts of accessibility barriers on education, particularly in post-secondary institutions, present significant impediments to the pursuit and completion of higher

education by disabled students. Analysis by the Canadian Human Rights Commission in 2017² reported that approximately

- 26% of individuals with disabilities in British Columbia indicated they changed their course of study because of their disability;
- 40% reduced their course load, thus taking longer to achieve their desired education level, and;
- 14% discontinued their education or training altogether due to accessibility barriers.

Additionally, students with disabilities report that due to inaccessible education practices, their education may be interrupted for long periods; they may incur extra expenses for school; and they may need to change schools, leave their community to attend school, or take courses via correspondence. Robust education standards governing accessibility will help address these existing systemic barriers.

An education standard would reduce current inconsistencies between various education sectors and jurisdictions. For example, there are currently large discrepancies in accessibility accommodations between the K-12 and post-secondary sectors, rural and urban institutions, smaller and larger institutions, and private and public jurisdictions. A consistent accessible education standard that everyone must meet would help to ensure students receive the same supports regardless of where in the province they pursue their education.

Additionally, an education standard would clearly delineate what is required for educational institutions to ensure that all educational materials produced or required by the school are provided in an accessible format and to ensure that all educators are trained in disability issues and basic accessibility practices. In most other jurisdictions, accessibility in education has initially been considered under the other standards, including the standards for Service Delivery and Information and Communication, with the intention of developing and implementing education standards at a later time. We believe that this approach does not do justice to the importance of education for all British Columbians, and therefore strongly encourage the development of a stand-alone Education Standard as part of the development of BC's accessibility legislation.

Timelines for Accessibility Legislation

The suggested approach to timelines recognizes the importance of accountability in the processes of development, implementation, and revision of accessibility standards. Building off the work other jurisdictions have undertaken should help to significantly reduce legislative development and implementation timelines. Including people with

² Canadian Human Rights Commission. (2017). Left Out: Challenges Faced by Persons with Disabilities in Canada's Schools [PDF file]. Retrieved from <https://www.chrc-ccdp.gc.ca/eng/content/left-out-challenges-faced-persons-disabilities-canadas-schools>

disabilities, as well as experts with practice in accessibility work such as CAPER-BC, in committee work to develop standards will also help reduce timelines by incorporating lived experiences and evidence-based practices into the standards.

Governance for Accessibility Legislation

The suggested governance model seems adequate, as it is essential to have both a review body to develop and revise accessibility standards and a method for ensuring compliance with said standards. The office of the Accessibility Commissioner should also encompass means for individuals who experience accessibility problems to raise concerns, as the current model of human rights complaints can be extremely onerous for individuals and has a disproportionate impact on the disabled community.

CAPER-BC would be interested in participating as part of the Standards Development Board or any technical committee, particularly with a focus on Information and Communication or Service Delivery Standards, or an Education Standard, should one be proposed.

Some other ideas that may be helpful to Accessibility Legislation governance include a designated person or office in government and public organizations responsible for ensuring in-house accessibility, to incorporate proactively accessibility standards, and to try to mitigate complaints before they arise. In addition, all information about legislation and standards should also be made available in plain-language documentation or guides.

Incentives, Compliance and Enforcement for Accessibility Legislation

The proposed approach to incentives, compliance, and enforcement for accessibility legislation includes several promising suggestions. In order to improve accessibility successfully, a cultural shift is essential, as it is impossible to drive attitudinal change with compliance and enforcement alone. Incentives must be developed to reward those who are leading excellence in accessibility practices and to highlight the positive impacts these practices have had on those with disabilities.

Mix of Incentives and Compliance/Enforcement Tools

To achieve the right mix of incentives and compliance/enforcement tools, it is imperative to make the compliance piece as easy to build in as possible for all organizations. Education, training, and funding to implement accessibility practices are essential to avoid non-compliance from individuals and organizations that are forced to comply with legislation without the necessary supports to understand and implement standards.

Reduced reporting requirements for those that have consistently displayed adherence to regulations may provide strong incentives for compliance, but must be balanced with real investigation into accessibility practices and implementation to ensure that organizations are not utilizing awards and other recognition without actually incorporating lasting change

to accessibility practices and culture. Structures for individuals and third-party groups to report infractions or difficulties with access are also necessary to incentivize compliance.

Reviews of Accessibility Legislation

Legislative reviews of accessibility legislation, under a specific timeline, are essential to keep the legislation up to date and relevant as current technology and expectations for what is possible and reasonable for accessibility standards evolve rapidly. Care must be taken to ensure that the legislative review process does not leave open the possibility for future governments to reduce the scope of the legislation upon review or turn it into something more utilitarian. Implementation must ensure that the review process can focus on updating or upgrading standards without revoking or neutralizing the core principles guiding the legislation. Every five years seems a reasonable period, as it is long enough to ensure that legislative review does not hinder implementation but also short enough to ensure that quick adaptation to changes in accessibility technology can be considered.

Promoting a Culture of Accessibility

In order to promote a culture of accessibility, particularly in the education sector, information on the prevalence of disability and accessibility barriers is helpful in demonstrating the need for accessibility initiatives. The development of a separate Education Standard for Accessibility could include requirements for ensuring all educators are aware of disability rights and accessibility standards. This would promote a culture of accessibility by emphasizing the importance of inclusive education in both the K-12 and post-secondary sectors. Additionally, stabilizing and increasing funding and support for organizations mandated to carry out accessibility services, such as CAPER-BC, would help to improve these services and emphasize the value of the work being done to provide and promote inclusive education.

Collaboration between government and private sector organizations such as those in the publishing industry could be set up to help reduce the need for “one-off” accommodations. For example, the BC government could work with smaller BC publishers to ensure they have the knowledge and tools necessary to create born-accessible books.

Supporting Cultural Change via Accessibility Legislation

Providing greater opportunities for education and training among those individuals with disabilities that desire such opportunities, and incentivizing businesses to hire people with disabilities helps to reduce the perceived stigma of working with disabled individuals and creates a more open and inclusive culture in the workplace. Finally, reducing the exclusion of children with disabilities in K-12 education can help to ensure that younger generations are educated in a more inclusive environment leading to a more nuanced understanding of disability rights and issues.

Conclusions

Overall, the framework as presented is thoughtfully composed and provides a nuanced understanding of the many ways in which inaccessibility systemically impairs the ability of individuals with disability to participate fully in society.

At CAPER-BC, our work with accessibility issues within the post-secondary education system provides us with a particular insight on how the current system disadvantages students with print disabilities. This insight underpins our recommendation that a separate Education Standard should be developed as part of the initial development of BC's accessibility legislation. This would highlight the essential nature of the importance of inclusive education and allow for more rapid accessibility advancements in the education sector. We would be pleased to offer our services as part of any committees or working groups initiated to investigate accessibility in education, print resources, or information and communications technology. We thank the Government of British Columbia for the opportunity to present our thoughts as part of this consultation process.

Respectfully submitted by CAPER-BC