CAN-ASC-1.1 Standard on employment: CCRW Summary and Recommendations

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Preamble

What is the Standard on employment: Public Review Draft?

Accessibility Standards Canada (ASC) creates standards through a process approved by the Standards Council of Canada. The goal of standardization is to advance objectives related to the wellbeing of Canada and Canadian citizens – such as economic development, consumer protection, and the safety and welfare of workers.

ASC was created in 2019 under the Accessible Canada Act (ACA) with the purpose of developing accessibility standards for **federal private sector organizations** and **Government of Canada departments and agencies** to help contribute to creating a barrier free Canada by 2040. The priorities for standard development were realized through the consultation process of the ACA. These priorities were created through consultation with experts – including individuals with lived experience of disability – and resulted in 7 priority areas: employment, built environment, information and communication technologies, communication (other than information and communication technologies), procurement of goods, services, and facilities, design and delivery of programs and services, and transportation. These are the 7 areas of focus for standard development within the ASC.

What is the purpose of the Standard on employment?

ASC's mandate is to contribute to achieving a Canada without barriers by the year 2040 through three activities: developing accessibility standards, advancing accessibility research, and sharing information about accessibility. The Standard on employment was created as part of activity one.

Per the Standards Council of Canada, all standards are voluntary. However, once the Standard on employment is finalized, it will be published and submitted to the Minister of Diversity, Inclusion, and

Persons with Disabilities, who may choose to adopt all or part of the Standard into regulation – making those areas mandatory and enforceable.

What is CCRW's goal?

The Canadian Council on Rehabilitation and Work (CCRW) exists to support and promote the meaningful, equitable employment of people with disabilities. As part of our strategic vision, CCRW aims to shares knowledge and influence policy with the goal of creating an accessible, inclusive Canada.

The Standard on employment is open for public review until October 17th, 2023. We want to share our recommendations on the Public Review Draft, as well as gather feedback from the community, so we can inform the development and refinement of the Standard together.

Summary and Recommendations

The Standard is divided into nine main sections: a prelude with an introduction, scope, reference material, and definitions, as well as a main body with sections related to structural support, policy, and leadership (systems, policies, and practices); culture, engagement, and education; recruitment, hiring, and onboarding; retention and career development; and work disability management, accommodations, stay at work, and return to work. [You can read the full draft of the Standard here](#).

This paper briefly summarizes the Standard, as well as offers CCRW's recommendations for its improvement.

Key Recommendations

CCRW has **three key recommendations**:

1. Define and amplify the concept of **disability confidence.**
2. **Move away from representation targets** as a way to achieve diversity, and refocus on strategizing, evaluating, and monitoring recruitment, retention, and advancement methods **to create genuine inclusion**.
3. Promote the development of a federal **centralized accommodation fund** to address accommodation needs and remove financial disincentives to accommodating workers.

CCRW Key Recommendation 1: Define, and amplify, the concept of disability confidence.

The Standard refers to 'accessibility confident' leadership training programs (Section 6.5.1), and mentions the term 'disability confidence' once, on page 14 (Section 1.1), in the following context: "This Standard encourages the embedding of accessibility and disability confidence alongside diversity and representation in inclusive workplaces". We agree with this statement; however, the idea of disability confidence needs expansion.

CCRW defines disability confidence in alignment with our partnered organization, INNoVA, and following Susan Scott Parker and [Business Disability International's](#) concept: being disability confident means being willing and able to effectively manage the diverse spectrum of human needs in an organization. It means treating accessibility for persons with disabilities as a business priority – by understanding how disability impacts every part of an organization, by identifying and removing barriers, and by dismantling assumptions about potential. In short, disability confidence entails getting comfortable and competent in handling a workforce that includes workers with disabilities.

By incorporating this concept more comprehensively across the Standard – and particularly in sections outlining training and education requirements – organizational leaders and their staff can become better equipped to understand preexisting attitudes and assumptions around disability, remove barriers, and go beyond acceptance to fostering genuine belonging.

CCRW Key Recommendation 2: Move away from representation targets as a tactic for achieving diversity, and refocus on strategizing, evaluating, and monitoring recruitment methods to create genuine inclusion.

In Section 6, the Standard specifies that leadership must 1) require management to identify workforce availability of persons with disabilities with job classifications and 2) establish representation targets for

its workplace against workforce availability (section 6.3.1 and again in Section 8). CCRW has concerns about the push to establish representation targets as a tactic for promoting inclusion and accessibility.

Representation targets over-rely on the presence of diversity ('representation') as an indicator of a healthy, safe, and inclusive environment. They do not go far enough to foster genuine inclusion and can result in mistrust, backlash, and 'tokenism': the practice of hiring diverse employees to create an appearance of inclusion, but without providing the supports and inclusive culture that enables diverse employees to thrive. Targets or quotas can also lead to increased stigma and discrimination against workers from underrepresented groups.

We do agree with the Standard's directive to benchmark representation against data on the workforce availability of persons with disabilities (alongside other sociodemographic identities including women and gender diverse workers, visible minority groups, and Indigenous persons). We know that employment rates for people with disabilities still lag behind their counterparts without. To address this, we recommend employers focus on strategizing, adopting, and evaluating inclusive recruitment approaches to attract persons with disabilities, and retaining these employees through the intentional cultivation of an inclusive, accessible workplace by exhibiting disability confidence in their actions.

CCRW Key Recommendation 3: Promote the development of a federal centralized accommodation fund to address accommodation needs and remove financial disincentives to accommodating workers.

Missing from the Standard is a discussion of the need for a **centralized accommodation fund**. Though briefly mentioned in 9.3.3.1 as a possibility for organizations to consider, a centralized accommodation fund implemented at the **federal level with federal funding** has the potential to streamline access to needed accommodations, reducing inefficiencies and slowdowns; to allow for standardization of quality and availability of supports, reducing disparities; and to remove financial disincentives to organizations implementing accommodations. It also assists businesses to mitigate the undue hardship they may encounter when funding an accommodation.

While centralized accommodation funds are indeed a best practice for organizations looking to promote accessibility, we believe the responsibility lies with the federal government to create a fund ensuring accessibility across all federally regulated organizations, departments, and agencies to ensure that procuring accommodations does not rely on individual entities and budgets.

In the section below, we also note several pieces of the Standard that should be highlighted as important, timely, and valuable, including the Standard's considerations of AI technology; its emphasis on proactiveness and accountability; and its commitment to ensuring workers with disabilities are included at all stages of organizations' accessibility journeys ('*Nothing about us without us*').

Areas of Support

Section 5 – Structural support, policy, and leadership (systems, policies, and practices)

Section 5 of the Standard describes the need for **accessibility strategies** with a) measurable objectives, b) supporting policies, and c) clear roles and responsibilities of stakeholders in the workplace. It also describes the need for organization to identify, remove, and prevent barriers to accessing information, and to proactively plan and prepare for emergency situations in ways that meet the needs of all workers.

Accountability is highly emphasized in this section and across the Standard, meaning organizations, and especially leadership (those with influence in the organization) should demonstrate their commitment to creating an inclusive, accessible environment, they should **evaluate and monitor** the progress made towards their accessibility goals, and they should communicate their strategies openly and transparently. We support the Standard's emphasis on measurable goalposts and continuous improvement.

The Standard is also clear that all individuals in an organization – executive, senior management, supervisors, internal experts, workers, and labour union representatives – have a role to play in achieving accessibility and inclusion. Those in positions of leadership, for example, shall take on responsibilities of strategic planning and fostering a culture of trust, while workers are responsible for communicating their feedback and participating in good faith in the accommodation process. All stakeholders' roles are clearly identified by the Standard, ensuring that everyone in the workplace will know how they can contribute.

The Standard outlines the need to use an **intersectional framework** to review and develop new accessibility and inclusion policy and, true to the principle of '**Nothing about us without us'**, states that organizations should consult with workers with disabilities in doing so – by making the contents of the policies available, and by facilitating workers' participation and feedback.

The Standard stresses the need for accessible information/communication infrastructure and technology. We appreciate that the Standard emphasizes being **proactive** in procuring and providing accessible format materials, reducing as much as possible the need for individualized accommodations.

Special significance is placed on accessibility and inclusion in relation to **Human Resource Information Systems (HRIS), Applicant Tracking Systems (ATS), and Artificial Intelligence (AI) tools.** The Standard's recommendations are timely and urgent, as workplaces across Canada are increasingly reliant on these tools to support recruitment, candidate assessment, and hiring. We want to amplify the Standard's points that organizations must demonstrate that using these solutions is consistent with **business necessity,** and that they must develop or select AI systems that are **free of ableist bias** by being trained on diverse data sets that include persons with disabilities**.** We also agree that it is critical that the ATS and AI screen for **essential job requirements,** and that their use is communicated to job candidates.

Section 6 – Culture, engagement, and education

The Standard emphasizes the necessity of consulting lived experience in implementing and maintaining practices for a healthy workplace culture – the **bottom-up** commitment and participation of workers – in addition to the **top-down** commitment from organizational leadership. Further, in Section 6 and elsewhere, the Standard stresses how **proactive measures** are necessary to identify, prevent, and remove barriers, and explains how this reduces or removes the need for reactive actions.

Organizations are urged to implement protections against a 'culture of silence, intimidation, fear, and bystander apathy' (6.1), and to protect against retaliation directed at those who speak up. While greater detail on specific tactics would be welcomed in this section, we appreciate that the Standard urges going beyond 'tolerance' to focus on acceptance and collaboration and outlines that organizations must take steps to eliminate discrimination, microaggressions, violence, and harassment; to respond to infractions in a timely and effective manner; and to reinforce organizational commitment via leadership training and education.

The call for leadership commitment is echoed in Section 6 as well, with senior management and executives' **transparency, accountability, and leading by example** being crucial to promoting and enforcing a healthy workplace culture. CCRW is also in full support of the Standard's emphasis on ongoing **training and education** for leadership and organization-wide, addressing comprehensive topics including the duty to accommodate, anti-ableism, disability legislation, and allyship. We recommend further details on how trainings can be developed or procured in a way that ensures quality and rigour.

Sections 7 and 8 – Recruitment, hiring, onboarding, retention, and career development

The Standard is thorough in outlining best practices for ensuring accessible, inclusive recruitment and hiring practices, ensuring that a **proactive approach** is taken, and the availability of accommodations is made clear to candidates at every step of the process. The Standard outlines the value of considering equivalent skills/experience and alternatives to standard tools like resumes and competency tests, as well as recommends organizations focus on **requirements essential to job functions**. Upon hiring, the Standard also makes clear that organizations must notify employees on accommodation policies and consult with employees who need accommodations to **co-develop an accommodation plan**. As outlined in Section 5, the Standard also makes clear that all materials should be provided in accessible formats.

To promote the retention, development, and advancement of workers with disabilities, the Standard encourages organizations to promote workers with disabilities to leadership roles and provide opportunities to take on increased responsibilities, as well as to avoid performance criteria that unfairly disadvantage workers with disabilities. The Standard additionally emphasizes inclusive performance management systems and processes, which includes ensuring accommodations are in place before assessments are conducted, and that accommodations 'follow' employees who transition to new roles within the company.

Intersectionality

Finally, the Standard includes a definition of intersectionality, adapted from Kimberlé Crenshaw (1994), that we wish to highlight:

Intersectionality: "*A framework that explains the cumulative way in which a person or group of people are affected by multiple forms of discrimination and disadvantages.*

Notes:
1) The effect of multiple characteristics of diverse groups can exist within a single person.
2) Systems of oppression such as ableism, racism, sexism, ageism, homophobia, and transphobia combine, overlap, or intersect especially in the experiences of marginalized individuals or groups."

CCRW fully supports and is committed to using an intersectionality framework, and we view this as crucial context for understanding and implementing the Standard. Applying an intersectional framework – as mentioned throughout the Standard – means ensuring the full diversity of identities (including disability, as well as race, ethnicity, Indigeneity, sex, gender identity, and more) and the interactions between them are reflected and considered in designing and implementing strategy, policy, and process.

Additionally, we feel it is important that intersectionality as a concept is recognized for its roots in Crenshaw's work on the intersections of racism and sexism by introducing this context in the Preface of the Standard alongside the passage below (pg. 11).

"This Standard centres on the intersecting identities within which disability is experienced. It recognizes that the lived experience of any person with a disability will be unique and is not reflective of others with the same disabilities or persons with disabilities as a whole. In keeping with the principle of intersectional experience, this Standard provides multiple formats of communication and language that persons with disabilities use to interact with the world and other people. In addition, this Standard takes an equity approach so that one type or subtype of disability does not take precedence over another."

Other Areas of Note

Notes on Probationary Periods and Accommodations (Section 7)

During onboarding, the Standard outlines that probationary periods should begin only once appropriate accommodations are made (section 7.5). While the intention of this practice is to ensure equitable treatment of workers with disabilities during the probationary period (i.e., that workers with disabilities are not placed at a disadvantage during their probation due to a lack of needed accommodations), this practice can have detrimental consequences and can disincentivize disclosure, particularly if workers do not have access to insurance or benefits during this time. Probation periods should not be linked to accommodation plans. Instead, we recommend that organizations take steps to ensure needed accommodations are put in place as soon as possible, document progress or delays in implementing accommodations, and create a process of regular, constructive feedback during the probationary period. We agree with the Standard in its suggestion that employers conduct regular reviews and updates of accommodation plans, with the worker, as needed.

Notes on Definitions

Selected terms defined in the Standard include: disability, barriers, accessibility, and intersectionality.

The Standard's definitions of 'disability' and 'barrier' mirror those set out in the Accessible Canada Act.

Disability: *"Any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment — or a functional limitation — whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society."*

Barrier: *"Anything — including anything physical, architectural, technological or attitudinal, anything that is based on information or communications or anything that is the result of a policy or a practice — that hinders the full and equal participation in society of persons with an impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional limitation."*

The Standard also defines accessibility as follows:

Accessibility: *"To enable persons with disabilities to live independently and participate fully in all aspects of life. Note: Ensures persons with disabilities have access to all aspects of society on an equal and equitable basis with others. This includes but is not limited to employment, physical environment, transportation, information, communications (including information and communications technologies and systems), financial security, social services, and to other facilities and services open or provided to the public."*

This definition is borrowed from the United Nations Convention on the Rights of Persons with Disabilities (CRPD), Article 9 – Accessibility.

CCRW advocates that **accessibility** involves an intentional, proactive process of identifying, removing, and preventing barriers. We agree with the Standard that this means ensuring equal and equitable access to all environments and features – built, transportation, social, informational, communicational, technological, and otherwise. The objective of accessibility is to ensure all of these environments and features are usable by everyone, including persons with disabilities.

CCRW is committed to the social model of disability, in which barriers are not brought on by individual 'impairments' or limitations, but by a lack of sufficient supports in the built, social, or technological environment. While we do not agree with the use of the term impairment, we do agree that disability is the result of the interaction between an individual living with any type of physical, psychosocial, intellectual, cognitive, learning, communication, sensory, medical, or other functional difference – whether apparent or non-apparent, and whether chronic, temporary, or fluctuating – and an environment that is inaccessible (i.e., that has barriers).