



May 9, 2019

**Submission to
the Accessibility Secretariat, ISSD, ESDC
on Regulatory Concepts for Reporting
Requirements: Accessibility Plans, Feedback
Processes and Progress Reports, Pursuant to
Bill C-81, *An Act to ensure a barrier-free
Canada***

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INTRODUCTION

ARCH thanks the Accessibility Secretariat for this opportunity to participate in the pre-consultation to the development of technical regulations on reporting requirements, pursuant to Bill C-81, *An Act to ensure a barrier-free Canada*.

ARCH has actively participated in the legislative process surrounding Bill C-81. In particular, ARCH made written and oral submissions to the House of Commons and the Senate recommending amendments to strengthen Bill C-81. ARCH attended the two pre-consultation conference calls held by the Accessibility Secretariat regarding the development of technical regulations.

Bill C-81 has not yet been proclaimed. The Senate Standing Committee adopted amendments to the Bill, and the Bill will now go before the Senate for Third Reading. Given the ongoing legislative process and the time constraints inherent in the pre-consultation to the technical regulations, ARCH's submission provides brief comments on the proposed regulatory concepts.

COMMENTS

Include Substantive Equality

In the previous submission on the regulatory concepts for administrative and monetary penalties, ARCH recommended that all the regulations should explicitly recognize substantive equality as an overarching regulatory objective.¹

As an overarching objective, substantive equality should be applied to the development of regulations in 2 concrete ways:

- First, it should influence the interpretation and meaning assigned to the regulatory principles that have been identified. Below, we suggest how this can be done with respect to the content of accessibility plans, time for providing an accessibility plan, and the formats for providing an accessibility plan.
- Second, once the regulatory scheme has been developed, it should be evaluated to determine whether it advances the overarching objective of substantive equality for persons with disabilities.

¹ For more details refer to ARCH Disability Law Centre, *Submission to the Accessibility Secretariat, ISSD, ESDC on Regulatory Concepts for Administrative and Monetary Penalties Regulations, Pursuant to Bill C-81, An Act to ensure a barrier-free Canada*, May 2, 2019.

Content of an Accessibility Plan

The Accessibility Secretariat has identified principles for accessibility plans, including being short, streamlined and meaningful; providing accountability; considering administrative burden; and being harmonized with provincial and federal requirements. An additional principle should be advancing substantive equality for persons with disabilities.

To implement the substantive equality principle, additional elements should be required to be included in accessibility plans, beyond what the Secretariat identified on slide 15. These additional elements include:

- a statement of the organization's commitment to becoming barrier-free and a deadline or timeline for achieving that commitment;
- a description of how the plan takes into account each of the principles set out in section 6 of the Act;
- a description of current barriers and specific steps the organization will take to remove those barriers;
- timelines within which existing and future barrier removal activities will take place;
- indicators for measuring whether existing barriers have been successfully removed or addressed;
- the identification of a person/s responsible for ensuring that the entire plan or each of its component parts is implemented;
- with respect to feedback: a description of any feedback that was not used and an explanation of why it was not used; and
- with respect to updated accessibility plans: an analysis of which barriers from the previous plan were and were not removed, an explanation of why some barriers were not removed, and a description of strategies for removing those barriers.

Time in which an organization must provide its accessibility plan in response to a request

The Accessibility Secretariat has asked what is an acceptable timeframe in which an organization must provide its accessibility plan to a requestor.

Closely related to the objective of substantive equality is the concept of universal design. Universal design aims to ensure that the building, space, technology or service being designed is usable by the greatest number of persons possible. Typically applied to the built environment, architecture, and information and communication technologies, the concept of universal design can also be applied to the design of systems and services.

In keeping with the concept of universal design, organizations should be required to publish their accessibility plans on their websites, in accessible electronic formats, as soon as those plans are final. This will mean that accessibility plans are readily available to many people immediately. It will reduce administrative burden on individuals and organizations by eliminating the need for many individuals to fill out requests for an organization's accessibility plan and eliminating the need for organizations to process those requests. Some persons will not be able to obtain an accessibility plan from an organization's website, either because they don't have access to a computer, they require the document in another format, or for other reasons. In those situations, the person would need to make a request for the accessibility plan.

As a general matter, accessibility plans should be made available within the shortest timeframe possible after a person has requested the plan. The Accessibility Secretariat has suggested that 5 calendar days is the shortest timeframe. In some cases, an organization will need to take additional steps to make its plan accessible for the person requesting it. For example, a person may need the plan in Braille, large print, alternate electronic format, plain language, or another format. When an organization needs to take additional steps to make its plan accessible for the person requesting it, a longer timeline for providing the plan available is justified.

Formats in which an organization must provide its accessibility plan in response to a request

To advance substantive equality, organizations must provide their accessibility plans in a format that is fully accessible to the person requesting the plan. As described above, this may require organizations to take additional steps to make the plan accessible, including contracting outside services such as Brailling or plain language expertise.

Organizations will need to ensure that they have internal processes established and personnel assigned to take the necessary steps to make accessibility plans available in alternate formats. This may require some training of personnel.