

THE CANADIAN HEARING SOCIETY
LA SOCIÉTÉ CANADIENNE DE L'OUÏE



**The Canadian Hearing Society Position Paper on
Accessibility and Accommodation**

■ **The Issue**

Culturally Deaf, oral deaf, deafened, and hard of hearing Canadians continue to be denied the accommodation needed for full and equal access to vital services that most Canadians take for granted such as education, employment, government services, and health care.

■ **The Canadian Hearing Society (CHS) Position on the Issue**

Without equal access, there can be no equal opportunity, and without equal opportunity, a fundamental right of Canadian citizenship, and democracy itself, is denied. Culturally Deaf, oral deaf, deafened, and hard of hearing Canadians have the right to be able to communicate fully and freely with organizations, businesses, and government service providers, including health care, education, post-secondary education, skills training, employment, and housing. It is the position of CHS that organizations and institutions such as these should be responsible for providing any and all accommodations that they and culturally Deaf, oral deaf, deafened, or hard of hearing people need in order to have full and equal access to each other.

■ **The Prevalence of Hearing Loss**

Almost 25% of adult Canadians report having some hearing loss (CHS Awareness Survey 2002), although closer to 10% of people actually identify themselves as culturally Deaf, oral deaf, deafened, or hard of hearing.

The average age in Canada is 39 years; by 2030 it will be 45 years. In 2030, Canadians 65 years and older will represent 25% of the total population, nearly double their current 13% (Statistics Canada).

Hearing loss is the third most prevalent chronic condition in older adults and the most widespread disability (Fook 2000; Yueh 2003). Its prevalence rises with age. Reports indicate that more than 80% of patients over 85 have a hearing loss (Yueh 2003). Further, 46% of people aged 45-87 have hearing loss (Dalton 2003).

Couple these statistics with the fact that aging is the #1 cause of hearing loss, and the conclusion is clear that the incidence of hearing loss is poised to climb dramatically.

■ Terms Key to Understanding the Issue

ACCESSIBILITY refers to a barrier-free environment. In particular, it means identifying and removing barriers and creating an environment so that its use and interaction with people is maximized regardless of culture or abilities. Accessibility also includes ensuring policies and services are free from barriers.

CHS acknowledges the position of the World Health Organization which states that “much of what disables people from participation is not the disability itself but rather the environment or aspects of the environment, external features of society created by people”.

ACCOMMODATION refers to providing the tools or practical measures that create access and is required when barriers have not or cannot be removed.

In keeping with Human Rights principles, accommodation is to be provided in a way that respects the individual’s dignity, which encompasses self-respect and self-worth, and entails such things as privacy, confidentiality, autonomy, and integrity. It recognizes that no two communication barriers are exactly the same and, therefore, each person is entitled to an accommodation that best suits his or her individual needs. Examples of individualized accommodation include ASL-English interpreting, real-time captioning, and computerized note-taking.

Implementing accessibility in new construction or major renovations would include the installation of such accommodations as visual fire alarms, integrated FM systems, visual announcement systems and text-telephones (TTYs).

When **accessibility** and **accommodation** are fully applied, we achieve full integration and participation by individuals who are culturally Deaf, oral deaf, deafened or hard of hearing.

■ The Rationale for CHS’s Position

In addition to clear moral and ethical grounds, existing legislation, significant legal decisions, and independent research reports support CHS’s position. In brief, they are as follows:¹

United Nations Convention on the Rights of Persons with Disabilities [2007]

Canada and Eighty other Member States and the European Community signed this landmark new convention at the United Nations in March 2007. The treaty aims to eradicate discrimination against persons with disabilities in all areas of life including employment, education, health services, transportation and access to justice. The Convention requires States Parties to acknowledge sign language, promote the linguistic identity of the Deaf community, and provide sign language interpreters among other issues relating to people who are Deaf.

¹ For links to these and other resources on accessibility and the duty to accommodate, please visit our website at www.chs.ca

The Canadian Charter of Rights and Freedoms [1982]: The Charter is a bill of rights entrenched in the Constitution of Canada. The Charter protects the political and civil rights of all Canadians, and supercedes all provincial human rights codes. The Charter is explicit in its provision for sign language interpreting services during any proceeding in which Deaf Canadians are involved (see Section 14 and 15.1).

Canadian Human Rights Act [1985]: This Act extends the laws of Canada to uphold the principle that "all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated...without being hindered in or prevented from doing so by discriminatory practices based on...disability."

Eldridge v. British Columbia (Attorney General) [1997]: The Court ruled that it is the responsibility of governments to provide sign language interpreting. While Eldridge dealt specifically with the right to sign language interpreting in the health care system, the principles set out apply more generally to services provided by government, or provided by non-government organizations carrying out specific government objectives.

Canadian Association of the Deaf, et. al. v. Her Majesty the Queen [2006]: This most recent Federal Court of Canada decision requires that all Federal Government programs, offices and services provide sign language interpreting services "upon request." The ruling makes explicit the right of access to government.

Ontario Human Rights Code [1990]: The Code protects Ontarians from discrimination based on disability or other characteristic (e.g. race, ancestry, family status, sexual orientation, etc.) and calls for a "climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province".

Note that other provinces and territories have legislation, policy and/or guidelines on the duty to accommodate persons with disabilities that embody the principles of the Ontario Human Rights Code. For links to these sites please visit us at www.chs.ca.

Ontario Human Rights Commission's Policy and Guidelines on Disability and the Duty to Accommodate [2000]: The Ontario Human Rights Code explicitly states that everyone has the right to be free from discrimination. The Policy and Guidelines outline the details and give practical measures for workplaces, public transit, health services, restaurants, shops, and housing to provide Ontarians with disabilities equal treatment and barrier-free access.

Accessibility for Ontarians with Disabilities Act [2005]: Passed unanimously in the Ontario Legislature, this Act commits the government of Ontario to create, implement, and enforce standards of accessibility with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises for the 16 per cent of Ontarians with disabilities, including people who are culturally Deaf, oral deaf, deafened, and hard of hearing.

■ Frequently Asked Questions

- *Does the August 2006 Federal Court ruling apply to other levels of government?*

Technically, since this decision is at the level of the Federal Court of Canada, it applies to the Government of Canada. However, on a substantive level, the decision does apply to provincial and municipal governments, because if these governments were ever challenged in court on a similar basis, there is little to differentiate their provision of services from that of the Federal government.

- *I'm a businessperson and I'm not sure what I can or should do to accommodate employees or consumers with hearing loss. Where do I turn?*

We're here to help! The Canadian Hearing Society has a long history of working with businesses to design and implement customized accommodation strategies. We invite readers to download our free guide: [Get Connected to Deaf, Deafened and Hard of Hearing People: A Guide for Service Providers and Businesses](#) or to contact us to find out more about our accommodation consultation services.

For more information please contact CHS Information Officer at The Canadian Hearing Society. Phone: 1-877-347-3427, TTY 1-877-347-3429 and e-mail info@chs.ca or visit us on the web at www.chs.ca.

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