

Examples of “Accepted Deviations” agreed upon by parties in private litigation under the ADA

Prepared by Irene Bowen, J.D. Email: IreneBowen@ADA-One.com

This is an excerpt from a 2006 settlement agreement in Cherry v. City College of San Francisco, No. C 04-4981 WHA (C.D. Cal.), available at this link:
<http://www.sturdevantlaw.com/Cases.php?Case=18>

Italics are not part of the settlement agreement; they indicate how similar issues were addressed in a 2001 agreement in a class action brought by Access Now against Columbia/HCA Hospitals, Access Now v. Ambulatory Surgery Center, 99-109-CIV-GARBER (S.D. Fla.).

Dimensional Tolerances

For the purposes of this Stipulated Judgment and Order, in determining whether any work is required to bring any Designated Accessible Facility listed in Section III.A.2 below into compliance with ADAAG or Title 24, the following specifications, which already include dimensional tolerances, apply:

1. **Restrooms**
 - a. **Grab Bars**: Grab bars shall be mounted so that the centerline of the bar shall be located between 33 inches and 36 inches from the floor. *[Access Now: In existing facilities, measured to any point on the grab bar (such as top, bottom, or centerline). In future construction, measured to the centerline .]*
 - b. **Paper towel Dispensers**: The leading edge of the dispenser must be mounted no more than 41 inches above finished floor.
 - c. **Soap Dispenser**: The highest operable part of the soap dispenser must be mounted no more than 41 inches above finished floor.
 - d. **Sanitary Seat Covers**: The highest operable part of the sanitary seat cover dispenser must be mounted no more than 41 inches above finished floor.
 - e. **Mirrors**: Must be mounted with the bottom edge of the reflecting surface no higher than 41 inches above the finished floor. *[Access Now: Up to 40 3/4” but no tolerance for placement of mirrors over accessible lavatories.]*
 - f. **Other Dispensers**: Must be mounted no higher than 41 inches above the finished floor.
 - g. **Coat hooks**: Must be mounted no more than 49 inches above the finished floor.
 - h. **Toilet**: The centerline of the toilet must be between 17 ¼ and 18 ¼ inches from the wall. (representing a – ¾ inch and + ¼ inch tolerance beyond the ADAAG requirement 18 inches).

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- i. Toilet Paper Dispenser: Must be mounted no less than 19 inches above the finished floor and no more than 36 inches from the back wall measured to the outside edge of the roll or dispenser.
 - j. Clear Space Stall: Stalls with wall-mounted toilets shall have a minimum depth of 56 inches. Stalls with floor-mounted toilets may have a minimum depth of 59 inches. The minimum width shall be 59 inches.
 - k. Urinals: Mounted so that the rim is no higher than 17 ½ inches above the finished floor. *[Access Now: up to 1” in existing facilities only; no tolerance for new construction]*
 - l. Sink: The rim or counter surface can be no higher than 34 inches above the finished floor. A clearance of at least 28 ½ inches from finished floor to the bottom of the apron shall be provided. There shall be a minimum knee space clearance of 8 inches from the face of the sink, measured at a height of no less than 27 inches from the finished floor.
 - m. Toilet Seat Height: 17 –19 inches measured to the top of the toilet seat. *[Access Now: tolerance of up to ½” on plus side of range only]*
2. Doors
- a. Exterior Door pressure: 8.5 lbs.
 - b. Interior Door Pressure: 6 lbs.
 - c. Door Pressure for Required Fire doors: 15 lbs.
 - d. Thresholds: ¼ inch in height.
 - e. Clear Spaces: The clear spaces shown in Figure 25 of the ADAAG may be 1 inch less than those shown in Figure 25. The clear spaces shown in Figures 11B-26A and 11-26B of Title 24 (2001 California Building Code) may be 1 inch less than those shown in Figures 11B-26A and 11-26B.
 - f. Clear Width of Door: Not less than 31 ¾ inches. (¼ inch off ADAAG standard).
 - g. Strike Side Clearances: The strike side clearances shown in Figure 25(c) of the ADAAG may be up to 1 inch less than those shown in Figure 25(c). The strike side clearances shown in Figure 11-26B(c) of Title 24 (2001 California Building Code) may be up to 1 inch less than those shown in Figure 11-26B(c).
3. Slopes:
- a. Cross Slopes: 2.5% maximum permitted.
 - b. Parking Space Slopes: 2.5% maximum permitted.

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- c. Ramps: If existing is in excess of 9.3%, must correct to 8.3% with a tolerance of .2% (i.e. 8.5%), provided that a slope of 10% is permitted for up to 5 feet only in the lower 1/3 of the ramp.
- d. Walkways: may be up to 6% slope before being considered a ramp requiring compliant handrails.

Any issues of dimensional tolerances not addressed herein shall be referred to the parties' experts for possible resolution by mutual agreement and thereafter shall be resolved through the dispute resolution process set forth in Section XI.

In Access Now cases:

Drinking fountains: Accessible drinking fountains: tolerance of up to 1” for spout height at fountain in existing construction; no tolerance in new construction.

Signage: It is equivalent facilitation to mount signage designating permanent spaces at heights from 59” to 61” measured to centerline.

Visual alarm notification devices: For existing construction, there is an acceptable variation equal to the height of the device on either side of established dimension for height requirement. For future construction, in compliance if either bottom or centerline is mounted at 80” AFF. In addition, construction tolerance of 1” for mounting height of notification devices, and placement of otherwise compliant visual alarm notification devices from 80” to 96” above the floor serves as equivalent facilitation.