



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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April 14, 2015

Mr. Javier Torrijos
Assistant Director, Construction
DeIDOT
Administration Building
800 Bay Road
Dover, DE 19901

Dear Mr. Torrijos:

The State Council for Persons with Disabilities (SCPD) has reviewed the March 13, 2015 draft of the Delaware Department of Transportation's (DelDOTs) *Pedestrian Accessibility Standards Facilities in the Public Right of Way*. SCPD appreciates that DelDOT attended both its full Council meeting on March 23rd and its Policy & Law meeting on April 9th to review the aforementioned Standards, listen to Council's concerns and provide clarification on a variety of issues related to the document.

SCPD endorses the concept and the comprehensive nature of the document with the caveat that the Council lacks sufficient expertise in accessibility standards to endorse the specific technical requirements and guidelines contained in the document. Council believes it is a very important document that will benefit DelDOT engineers, staff and contractors in the planning, design, construction and maintenance of accessible pedestrian facilities in the public right of way. This will result in better "connectivity" of all those facilities which, in turn, will allow better access to community activities for all Delawareans, including individuals with disabilities.

However, SCPD has the attached observations and comments below for DelDOTs consideration. Council understands they will be shared with the Federal Highway Administration which has final approval of the Standards.

Regarding a pedestrian access route (PAR), the U.S. Access Board requires a minimum clear width of 48". The DelDOT Standards appear to allow for 3' to 4'11" (at page 21). In addition, "Pinch Points" are defined as isolated locations with an accessible width of no less than 34" (at page 22). These DelDOT standards may violate the U.S. Access Board's standard of no less than 48".

Figure 23 (at page 47) regarding detectable warnings and curb ramps appears problematic as the middle of the detectable warning surface in the “middle figure” points to the middle of an intersection. This could be extremely dangerous for an individual with a visual impairment.

Thank you for the opportunity to collaborate and consideration of Council’s comments. Please contact SCPD if you have any questions or comments regarding our perspective on this most important issue.

Sincerely,

A handwritten signature in black ink that reads "Daniese McMullin-Powell". The signature is written in a cursive, flowing style.

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: Mr. John McNeal, ADA Title II Coordinator, DelDOT
Mr. Robert McCleary, Chief Engineer, DelDOT
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

**Comments on the Draft of Pedestrian Accessibility Standards Facilities in Public Right-of-Way
Prepared by Delaware Department of Transportation
Presented to Delaware State Council for Persons with Disabilities on March 16, 2015**

The draft does not provide for two amendments listed in the Federal Register.

1. Accessibility Guidelines for Pedestrian Facilities in the public Right-of-Way; Shared Use Path
This amendment is only identified under 1. DeIDOT Goal in DeIDOT draft.
2. Right-of-Way and Real Estate
Any problems of acquiring right of way should be documented and signed off by ADA coordinator.

Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way changes

R105.5 Defined Terms. Includes Shared Use Path, and a new definition for Public Right-of-Way.

R204 and R302 revised

R204.2 Pedestrian Circulation Paths, revised.

“pedestrian circulation paths” ‘in R204.2 includes sidewalks and shared use paths.’

R302.3 Continuous Width, revised

“AASHTO Guide recommends that the paths should be 11 to 14 feet wide to enable a bicyclist to pass another path user traveling in the same direction, at the same time a path user is approaching from the opposite direction.”

R302.5 Revised

R210 Protruding Objects, revised

R210.3 Shared Use Paths, overhang or protruding...

“The AASHTO Guide recommends 10 feet vertical clearance along shared use paths, and 8 feet minimum vertical clearance in constrained areas.”

R218 Doors, Doorway, and Gates, revised

“The AASCHTO Guide recommends the use of one bollard in the center of the shared use path. Where more than one bollard is used, the AASCHTO Guide recommends an odd number of posts spaced at 6 feet. ”

R304.5.1.2 Curb Ramps and Blended Transitions, revised

“would add a new provision for shared use paths at R304.5.1.2 that would require the width of the curb ramps runs and the blended transitions to be equal to the width of the shared use path.”

The written draft presented by DeIDOT contains a couple of sections that do not meet ADA or the Federal Draft of Accessible Guidelines for Pedestrian Facilities in the Public Right-of-Way. These sections must be changed so that the draft is commensurate with ADA and the Federal Draft of Accessible Guidelines for Pedestrian Facilities in the Public Right-of-Way, and so that this draft can be used as best practice guideline. Federal law allows different standards as long as they are not less restrictive. These sections (cross slope and running slope) are less restrictive and increase the difficulty of using the Public Right-of-Way by the handicapped community.

Chapter 7 III D. Curb Ramps

Curb Ramps running slopes clearly states “that range from more than 5% to a maximum of 8.3%.”

R302 states pedestrian access routes “adopt the technical requirement for accessible routes in 2004 ADA and ABA Accessible Guidelines to the public right of way.”

2004 ADA 405.3 “Cross slope of ramp runs shall not be steeper than 1:48.”

Clearly neither one has any measurement tolerance.

This brings up the subject of tolerances for running slopes and cross slopes used throughout the draft. These are so broad that they affect the handicapped community negatively. A research project paid for by the Access-board provides some clarity to the subject of Right-of-Way construction tolerances. This report also yielded a number of recommendations: measurement protocol, tolerance in specifications along with recommended tolerances for right-of-way.

The Access-board research project **Accessibility Standards reference industry guidance in the measure of field and construction tolerances** was contracted to David Ballast, Architectural Research Consulting. The following industrial organizations were represented: Asphalt, Brick, Concrete (poured), Concrete pavers, Stone, Tile, Wood; in addition the following professional organizations: American Institute of Architects, Construction Specification Institute, Master Specification Companies, along with Representatives from the U.S. Army Corps of Engineering, National Institute of Standards and Technology, National Institute of Building Science.

Some of the Access-board recommended tolerances for right-of-way are:

	PROWAG Maximum	Design Maximum	suggested tolerance
Ramp Running slope	8.33%	7.50%	
Ramp cross slope	2.00%	1.5%	+0.5%
Asphalt sidewalk cross slope			+0.5%
Asphalt sidewalk running slope			+1%

You can see that the Access-board recommended tolerances are way below those which are specified in DeIDOT draft and by using Access-board recommendations it would show the handicapped community that the State of Delaware cares for them by not putting out a large tolerance of 1%. Workers have been meeting ADA title II and Title III for 25 years.

The simplest way for design professionals to avoid problems with construction tolerances related to surface accessibility and other accessible elements is to design slopes and dimensions that are slightly less than maximum and slightly more than minimum.

By using the Access-board recommended tolerances, i. e. a different tolerance for each type of construction tolerance needed, the State will be in a better position to defend itself than with the proposed 1%-tolerance across the board. I think it would be difficult to find conventional industry tolerances required by (R103) “Conventional industry tolerances apply where dimensions are not stated as a range.”

This would surely show the handicapped community that the State cares, and because so many construction-related groups were part of the discussion, it would also be equally fair to the design engineers and construction field workers.

There are many DelDOT standards shown, e. g. Figure 20, Figure 25, Figure 27, that do not have the slope dimension right. I believe standard protocol calls for slope = rise over run; example a slope of 1/12 =1:12

J. Bus stops

“When bus stops are provided, accessibility requirements must be met as required by 2010 Standard 810 Transportation Facility.”

Federal Draft “R308.1.1.2 Grade. Parallel to the street or highway, the grade of boarding and alighting areas shall be the same as the street or highway, to the extent practicable. Perpendicular to the street or highway, the grade of boarding and alighting shall not be steeper than 2 percent.”

This even uses the term shall (which is mandatory) in the draft and nowhere does it use Maximum. Therefore you cannot use the measurement tolerance of 1%.

ADA 2010 R810.3 Bus Shelter. Bus shelters shall provide a minimum clear floor or ground space complying with 305 entirely within the shelter.

R305.2 Floor or Ground Space “changes in level are not permitted.” “Exception: slopes not steeper than 1:48 shall be permitted.”

Measured tolerance of 1% cannot be used.

M. On-street Parking.

Right-of-way was designed to cover items that are not in ADA 2011. What is the difference between the other items in the Right-of-Way and on-street parking? People have to be able to park, otherwise all the work done with respect to Right-of-Way is of no use, since a person with a handicap cannot use the sidewalk if there is no accessible parking space. This has to be included with equal value and must be enforced.

Figure 32 shows a curb to the right and adjacent to the handicapped parking space. The curb is a barrier to handicapped persons getting out on the right side and should not be shown as a curb. Many parking lots use this space for lamp posts, shrubs trash cans; just a curb prevents getting a walker or wheelchair between the curb and the car.

IV. Federal Case Law

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Fortyune v. City of Lomita

The above case should be added to the draft Federal Case Law.

Missing sections;

R407 Ramps, R408 Stairways, R409 Handrails, R410 Visual Characters on Signs, R411 International Symbol of Accessibility. These should at least mention that the technical requirements are the same as in 2004 ADA and ABA Accessibility Guidelines.