**Expect Success: A Guide for Faculty***

**Background**

Disability is a natural part of the human experience…

*104 Congress of the United States*

**Disability and Civil Rights**

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 are Civil Rights laws. They affirm that people with disabilities should have access to the social, economic, educational and cultural aspects of national life. Their impetus is the assertion by people with disabilities of their inalienable right to be treated as equals.

The first Civil Rights law in the world for people with disabilities was passed in 1968. It was known as the Architectural Barriers Act. It required Federal facilities to be physically accessible for wheelchair users and others with mobility limitations. Its true significance, however, was to redefine disability in a civil rights context. Thus, disability now had to be considered, not as a medical problem, but as a social problem. The law acknowledged that barriers in federal buildings denied entrance arbitrarily to citizens who experienced significant mobility limitations, such as wheelchair users. Thus, it prevented their full participation in government by the people, of the people, for the people.

**The Law: Title II and 504**

In 1973, the Civil Rights concept of disability was expanded to all aspects of Federal government and its contractors. Section 504 of the Rehabilitation Act stated that no person with a disability would be discriminated against as long as that person was otherwise qualified, and that reasonable accommodations would be made for such individuals. The regulations to implement Section 504 languished for four years. Finally, in April, 1977, disability activists responded to an effort within the Carter administration to weaken the unpublished regulations. The activists occupied federal buildings around the U.S., and forced Health Education and Welfare Secretary Joseph Califano to publish them, unchanged.

In 1990, the Americans with Disabilities Act was signed into law by George Bush. It was drafted by conservative Reagan appointees to the President’s National Council on the Handicapped, now the National Council on Disability. Ironically, President Reagan intended the Council to eliminate or weaken Section 504 in his political agenda to deregulate federal government. Instead of dismantling the civil rights protection, the Council advocated for stronger protections. ADA expands the essential concepts of Section 504 to all aspects of American society such as private employers, public

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
accommodations (i.e., restaurants and motels), and the Telephone Relay System for the Deaf. Under Title II, the ADA strengthened the responsibility of public entities, such as state and local government, to ensure that qualified students with disabilities will not be discriminated against. Significantly, Title V of the ADA gives people with disabilities the opportunity to take their cases to court and to receive punitive damages along with their attorneys' compensation. These additions give greater force to the law with which to overcome discrimination.

**What is discrimination against students with disabilities?**

In short, Section 504 and Title II of the Americans with Disabilities Act (ADA) prohibit discrimination against students with disabilities who are otherwise qualified, and that when appropriate, such students must be provided reasonable accommodations. Programs, but not necessarily all buildings or classrooms, must be accessible to students with disabilities. This is often referred to as program access.

In other words, students have a right to access upon meeting the qualifications. Once qualifications are met, it is illegal to arbitrarily eliminate students with disabilities solely on the basis of their physical or mental condition. To do so would be discrimination. Failure to remove program barriers by refusing or denying reasonable accommodation would also be a form of illegal discrimination. The law does not mean that students get special considerations, but that they should enjoy a level playing field in which to compete, succeed and thrive.

**Who takes care of students with disabilities?**

Civil Rights Vs. the Medical or Special-Ed Models

Under laws governing special education in public schools, children with disabilities are entitled to free and appropriate education. This means that they may not be excluded from public schools because of a disability. Schools must assess, determine and provide educational services tailored to the student's disability.

In higher education, this is not the case. The medical and special education models imply that someone is either monitoring and making decisions for students with disabilities or always looking out for them, assisting them in reaching the most positive and individual educational experience possible. At Mars Hill College, Disability Services is responsible for:

- Verifying disabilities and the need for accommodation
- Recommending reasonable accommodations
- Helping students to self advocate
- Advocating for program access

---

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
These are civil rights charges. Civil rights imply the strong responsibility on the part of the individual to conduct themselves as first-class citizens. Students must:

- Identify themselves
- Request reasonable accommodations given their functional limitations in a reasonable time
- Meet the academic standards expected of all students.

Disability Services does not have either the right or the responsibility to look over the shoulders of students with disabilities. Students are ultimately responsible for themselves. Disability Services works with students and, when appropriate, with their instructors, to determine two things. First, which accommodations are reasonable and second, identify other student services that may be appropriate and refer students to them. Disability Services gives students some possible designs as well as the tools needed to build a level playing field for themselves. In the end, the access a student builds is their own.

What is a disability?

Mars Hill College adheres to the civil rights definition of disability. Eligibility for protection under the ADA and Section 504 requires the applicant to meet one of the following three criteria:

1. Have a physical or mental condition that substantially limits one or more major life activities
2. Have a record of such a physical or mental condition
3. Be regarded as having such an impairment, whether actually having the impairment or not.

Examples of disabilities include, but are not limited to the following:

- arthritis
- attention deficit disorders
- blindness/low vision
- cerebral palsy
- communication disorders
- deafness/hearing impairments
- emotional/psychological disabilities
- multiple sclerosis
- seizure disorders
- specific learning disabilities
- spinal cord injuries
- temporary disabilities
- traumatic brain injuries and
- other health impairments.

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
How does Disability Services verify a disability?

Disability Services obtains current written documentation in order to verify the existence of a disability. Verification includes a diagnosis, description of the functional limitations that may affect academic performance, rating of severity and a recommendation for accommodations. Documentation used in verifying a disability contains a printed and signed name of a physician, psychologist, rehabilitation counselor, social worker or other authority qualified to assess the disability and who is not related to the student.

With respect to Learning Disabilities, Attention Deficit/Hyperactivity Disorders, and Psychiatric Disabilities, Disability Services maintains specific verification requirements. These standards are based on excepted professional guidelines for disability in higher education. At times, Disability Services requests additional documentation. All documents are regarded with strict confidentiality.

What are functional limitations?

A disability must limit functioning in school before one can receive an accommodation. The effect of a disability on program access is referred to as a functional limitation. A physical or mental condition, in and of itself, does not necessarily require accommodation. There must be a logical link between the functional limitation stemming from the disability and the accommodation requested. Disability Services coordinators first identify functional limitations through discussion with the student and review of documentation. Then, the coordinator provides the student with information about the accommodations for which the student is eligible. Lastly, the student chooses the accommodation(s) that address his or her functional limitations in most the suitable way(s).

Example:
A blind student cannot see to read print in textbooks. The disability, blindness, causes the functional limitation, an inability to read printed text. Thus, the blind student may choose the accommodation of reading the text in an alternative format such as Braille or using an employee who reads the text aloud. On the other hand, blindness doesn't prevent one's ability to take notes during a course lecture -- Braille and other electronic devices can be applied for this task. Therefore, a blind student may not be eligible for the accommodation of note-taking services because the functional limitations of blindness do not affect the ability to take notes using Braille or by electronic means.

What is meant by otherwise qualified?

When students apply to Mars Hill College, they must demonstrate to Admissions staff that they meet the admission standards for this institution. They provide their high school transcripts, college entrance scores (ACT or SAT) and any other important information about themselves which may indicate their potential to succeed and contribute in the college’s diverse campus community.

*This Handbook is adapted from the virtual hand book, Expect Success, created by Disability Services at the University of Montana-Missoula.
If a student with a disability has been accepted to Mars Hill College, that student has demonstrated that he or she is a qualified individual, despite having a disability. Thus, the University must then attempt to remove barriers within the student's program.

Every person is not entitled to attend college and receive a bachelor's degree. However, any individual who meets admission standards should have an opportunity to earn a degree. Disability is not the main criteria with which to determine the qualifications for that opportunity. Following admission, we expect each individual to continually demonstrate that they are otherwise qualified by meeting or exceeding the academic standards set by the institution.

And they must do so whether or not they have accommodations.

**What is a reasonable accommodation?**

Reasonable accommodations are changes in the learning environment that permit students with disabilities to compete at Mars Hill College. The accommodations modify nonessential elements of college programs.

Examples include, but are not limited to:
- extended testing times
- use of audio textbooks
- separate setting for testing
- use of a notetaker

Disability Services coordinates and provides reasonable accommodations to qualified students with disabilities. Accommodations are individualized to address specific functional limitations resulting from a disability. There must be a logical link between the functional limitation and the accommodation.

**What is meant by with or without accommodations?**

Understanding this phrase is critical to understanding the distinction between a civil right and, by comparison, an entitlement. Put bluntly, it's legal and even okay for a student with a disability to flunk out of college. Section 504 and the ADA do not guarantee success. They do not mandate a "safety net" intended to keep students with disabilities in college at any cost. Students with disabilities must perform at the level that their academic and professional programs expect of all students. The University attempts to level the playing field for students whose disabilities have been verified and who request accommodations. Ultimately, the students' work must be their own and be of a satisfactory quality.

In addition to guaranteeing civil rights to program access, the ADA also guarantees any individual with a disability the absolute right to refuse any accommodation. Disability Services is not responsible for making sure a student requests accommodations. However, Disability Services will ensure that requested and approved accommodations

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
The Disabilities Coordinator and Disabilities Committee rely heavily on documentation of the disability when determining accommodations. Also, they draw the student into a discussion of limitations and possible strategies. Accommodations not requested by students will not be provided.

The bottom line is that students with disabilities must perform at satisfactory levels in their academic pursuits at Mars Hill College. If they do not request reasonable accommodations and perform poorly without them, their civil rights have not been violated. The student must then deal with the consequences of unsatisfactory academic progress.

**The Elements of Access**

**Complying with the Spirit of the Law**

Civil rights laws for people with disabilities prohibit limiting access to students because of a disability. Thus, an important step is to inform students of your intent to accommodate them. This can easily be accomplished by announcing this intent on the first day of class and including a statement, like the following example, on each course syllabus:

*Qualified students with disabilities will receive appropriate accommodations in this course. Please speak with me after class or in my office. Please be prepared to provide a letter from your Disability Services Coordinator.*

Next, be willing to listen to students’ requests and make reasonable accommodations. This does not mean reducing the standards you set for the course, but rather leveling the playing field for the student(s) in question.

**What can I expect of students?**

Instructors should expect, and insist on, accountability on the part of students with disabilities in their courses. Create the expectation of self-knowledge and understanding for students with disabilities, just as you would for any other student with whom you interact. These are the essential tools of self-determination.

Expect that students can explain how their disability limits their functioning. Do your best to make the link between those limitations and the accommodations they request of you. Insist that students make such requests in a timely and responsible way, stating their requests clearly and concisely.

Although it is the role of Disability Services to verify a disability and to recommend reasonable accommodations, as the instructor, you have the right to be assured that the disability has been appropriately verified and the accommodations requested are indeed
reasonable. You are free to expect students to provide you with such letters of verification from Disability Services if you wish.

Upon verification of a student's disability and functional limitations, the Disabilities Coordinator meets with the student to discuss potential accommodations which Mars Hill College may provide. Accommodations, again, are linked logically to the student's functional limitations, rather than a reaction to the condition which causes them.

The Disabilities Coordinator guides students on notifying their instructors about their limitations and the accommodations they will likely request of them. Disability Services provides a letter indicating that the disability has been appropriately verified and that the functional limitations may warrant accommodations. The letter will also list recommended accommodations that the student and instructor can discuss.

**Example:**
A student who has experienced significant back problems may be limited in their ability to sit for a full 50 minute class period without severe pain, which then creates a further limitation in their ability to concentrate adequately on class lectures and discussions. In addition, the effects of the condition limits the student's functioning on a variable basis. That is, some days are pretty good, others are markedly worse.

The student's functional limitation is sitting tolerance and the secondary physical discomfort and loss of concentration. The accommodation, therefore, is alternate seating, permitting the student to stand part of the time or all of the time, or simply to be able to shift position several times during the class period. In some instances, the student may become so uncomfortable that they feel the need to leave class altogether.

In this case, the instructor is not likely to be asked to do anything for the student except be aware that the student is not being rude or intending to be disruptive. The instructor should expect that the student will give notification of their limitations and request the instructor's consideration. Certainly this would be the case if the student were to leave the class early because of discomfort. In addition, this student may receive priority in preregistration, thus allowing them to avoid back-to-back classes whenever possible.

**Access Assembly Checklist**

This checklist is provided to assist faculty in building an accessible learning environment in their courses. Anticipate that students with disabilities may potentially be in every course. It is not required, however, to anticipate every accommodation that any student with a disability might need prior to the request. Simply be prepared for the fact that some requests for accommodations will be made. And, by all means, expect students with disabilities to successfully meet the requirements of your courses!

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
Hold students with disabilities accountable to the same standards you hold every other student. Remember, academic standards and access are complementary.

Provide notice to your students of these standards and of your willingness to accommodate. This can be done verbally or in writing within your course syllabus. Best practices recommend both.

Grant reasonable accommodations. Accommodations are changes in the way things are done. They are reasonable so long as course standards aren't fundamentally altered and there is a logical link between the student's limitations and the accommodation.

Consult with the student and the Disabilities Coordinator. Students must generate their own requests for accommodations. Requests ought to be supported by evidence of the need for accommodation. A sensible link between the disability's functional limitations and the accommodation requested must be supported. Some students may present written documentation, others may not.

Verify the existence of the disability and need for accommodation with the student, Disability Services, or another authority. Disability Services recommends that written verification come from our office. We provide the information necessary for an instructor to assure program access while providing protection of student privacy.

Permit students to use auxiliary aides and technologies which ensure access. Depending on the disability, students may use note takers, sign language interpreters, readers, scribes, and research assistants. Others may use tape recorder/players, computers, assistive listening devices and other technologies for the same purpose.

Grant testing accommodations. Again, depending on the particular needs of a student, it may be necessary to extend testing times, change testing formats, test in a quiet environment, and so on. Regard disability-related discussions and information with the strictest confidentiality. Violation of student confidentiality can potentially create a hostile learning environment, thereby destroying program access. Take your cue from the student.

Other tips which may enhance access to your courses ...

Select course textbooks early. Blind and other students with print limitations must begin early to obtain their texts in alternative formats.

When requested, provide alternatives to printed information such as class handouts or reserve materials in the library. Alternatives to print include Braille, computer electronic text, large print, and tape cassettes. If Internet resources and other technologies are used, then they must be as accessible to students with disabilities as they are for other students. Disability Services coordinates provision of these alternative formats.

Make academic adjustments in instruction. Some students need lecturers to face the audience while speaking. A student may ask you to use the existing sound system in a classroom, or to wear a small transmitting microphone while they wear the FM receiver. Others may need written or graphic information spoken.

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
aloud or described. Adjustments such as these may be taken after the student requests them.

**Arranging for Accommodations**

Students with disabilities or suspected disabilities meet with the Disability Services Coordinator confidentially as a first step in arranging accommodations.

Students formally declare their disability and provide documentation that substantiates the disability and request accommodations that logically address functional limitations caused by their disability.

The coordinator, usually through consultation with the Disabilities Committee, verifies the disability and determines how functional limitations affect academic work. This is accomplished through discussion with the student and/or review of documentation. Students with insufficient documentation may be referred to physicians, psychologists or other qualified diagnosticians for complete assessment before accommodations are granted.

After the disability and its functional limitations are verified, and accommodations approved, the coordinator meets with the student to develop an Academic Accommodations plan which is then given to instructors, alerting them to the student’s accommodation needs. The Disabilities Coordinator is available throughout the semester to assist both students and faculty with ongoing problem solving.

**When are accommodations not provided?**

Mars Hill College provides accommodations unless they fall under one of the following three categories:

- **Fundamental Alteration:** If an accommodation reduces the academic standards of the University, its schools, departments, or its courses, the University denies the accommodation and deems it unreasonable. Academic standards are essential for any student. It is unreasonable to alter these fundamental standards as an accommodation for a student with a disability.

- **Undue Hardship:** If an accommodation costs too much or is impossible to administer, the University denies the accommodation and deems it unreasonable. An undue financial burden applies to the University as a whole. Therefore, decisions regarding undue financial hardship can only be made by the president and cannot be made by a department, school or college. If a University division feels it cannot afford an accommodation which would be reasonable otherwise, it should seek assistance through appropriate channels. An undue administrative burden occurs when the University doesn't have enough time to respond to the request, or when it would be impossible or infeasible to administer. In every instance, the University reserves the right to offer other, equally effective accommodations.

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
• Personal Service: If a request for an accommodation falls under the definition of a personal service, the University denies the request because it is unreasonable. Personal services are those that a person with a disability must use regardless of attendance at the University. In addition, personal services are those for which no correlation between the disability's functional limitation and program access can be established. The University, for instance, does not purchase wheelchairs or other assistive technologies used in every setting to compensate for a mobility impairment. Other examples of personal services may include independent living, mental health, rehabilitation, remediation and tutoring.

Student Confidentiality

All documents which Disability Services collects are regarded with strict confidentiality. Disability Services does not reveal the condition or diagnosis of any registered and/or verified student. Faculty have the right to know the following regarding students with disabilities:

1. The student has a disability verified by Disability Services
2. How the disability or condition limits the student at MHC.
3. Recommended academic adjustments that will make the student’s programs accessible

Once again, there must be a logical link between the functional limitations and the recommended accommodations or adjustments.

No documents will be released to any internal or external individual, departments or agency without the written permission of the student or the student's guardian. Instructors are cautioned against identifying students with disabilities unnecessarily to their peers or other colleagues without the student’s consent. Announcing, for example, at the beginning of an exam that all disabled students should come to the front of the class would violate the students’ right to confidentiality.

How do I challenge an accommodation that I feel is unreasonable?

If you are uncertain about a request for an accommodation, you can challenge the student’s request in a number of ways. First, you can ask the student for their letter of verification from Disability Services to ensure that the accommodation is one recommended by the Disabilities Committee and/or Disabilities Coordinator. If the letter doesn't contain any mention of the requested accommodation, you can contact the Disability Services Coordinator. Remember, the accommodation is considered unreasonable if it reduces the academic standards or your requirements for a given course. It is also unreasonable if it is impossible to administer. If an accommodation does not appear to be appropriate given the student's functional limitation, Disability Services will not support it.

Many accommodations may be requested by the student that have not been discussed

*This Handbook is adapted from the virtual hand book, Expect Success, created by Disability Services at the University of Montana-Missoula.
with Disability Services. This doesn’t always mean that the request is unreasonable under the law. Contact Disability Services if you are unsure if a request is reasonable and suggest other alternatives to offer the student.

If you decide to deny a request as unreasonable, inform the student, clearly indicating your rationale. If you have discussed this with Disability Services already, refer them back to their coordinator for further clarification.

**Are these accommodations fair to other students?**

This question is often asked of students with disabilities. The underlying assumption of the question is that fairness and equal treatment are synonymous with "the same" treatment. However, the same treatment doesn't always measure fairly. Civil rights laws for people with disabilities are founded on this last assumption.

First, these laws protect students with disabilities from being subjected to the arbitrary measure of what is best for others, except in cases of safety to others. Second, the assumption of the law is that modifying non-essential tasks should give the student with a disability an equal, or fair, chance to demonstrate their ability, minimizing their functional limitations to the greatest extent possible.

**Example:**

A student whose limitations in the physical task of writing or other fine motor manipulations may be an excellent writer even though they cannot print or type the letters and words. Thus, the physical act of writing is a non-essential task. The student’s mastery of language and course material must not, under the law, be judged by their ability to manipulate a pencil or pen, or by use of a keyboard. Accommodating the student by providing a scribe to record the student's essay responses, for example, permits the student to show whether they can write effectively and whether they have acquired the information and critical skills the instructor wished to convey in the course.

No unfair advantage over nondisabled peers is gained by the use of a scribe. In using this auxiliary aide, the student has yet another layer of communication to contend with – that of communicating clearly to the scribe the words and structure of their answer -- including punctuation and spelling. Even with extended time on an essay exam to compensate for the additional time of dictating to and directing the scribe, the student can only hope to approach a truly level playing field.

**What If…..

....a student says their disability may limit regular attendance?**

Attendance during scheduled class times is a necessary part of the learning process. Disability Services may recommend flexibility in attendance requirements for some students. This is usually the case when the nature of the disability results in variable functioning levels, i.e., "good and bad days." Flexibility is negotiable, contingent

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
upon the student and circumstance. Variables such as the course, the material and the necessity of interaction in the classroom are all considered. However, flexibility should not be interpreted as a blank check for absences.

Example:

Discourse between instructors and students is a critical aspect of learning in a literature course. Thus, it would not be possible simply to read the assigned texts and copy another student's notes before an exam. Similarly, a science lab course requires students to work, often together, to observe phenomena in experiments and record findings.

In other courses, such as large lecture courses, there may be more flexibility in attendance than in the previous two examples. Discussion between the student and instructor are essential. The Disabilities Coordinator is also willing to participate in such discussions.

...a student's behavior disrupts instruction?

It is not possible to accommodate disruptive behavior on the part of a student with a disability. Students with disabilities are expected to adhere to the Student Conduct Codes just as any other student. If disruptive behavior occurs, the instructor should give the student fair warning. Contact Disability Services if you have any other concerns.

....I choose not to comply?

If an instructor does not provide an accommodation which is reasonable and legitimate, the student has several options, both formal and informal. While Disability Services defaults to the level of action which intervenes the least between the student and the instructor, we also have an ethical obligation to inform students of their rights to due process under the law.

Informal options and therefore the least interventionist ones include the following:

- clarifying the student's rights in the situation at hand, and coaching them about how to best discuss the accommodations further with their instructor
- Disability Services coordinator may phone the instructor to further clarify the issue and to ensure he or she understands the student's civil rights
- student and Disability Services coordinator meet with instructor
- student may contact chair or dean for assistance with the situation

The student may file a formal grievance through the Disabilities Committee. The Disabilities Committee will determine what forum and process would be engaged to review the grievance.

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*
Finally, the student always has the right to file a formal complaint with the U.S. Dept. of Education's Office of Civil Rights. This process takes longer before the situation is resolved, but carries with it greater threats to the University as a whole in the event of adverse findings.

Again, not every accommodation is legitimate for every student. Contact Disability Services to obtain more information about the request(s) in question.

*This Handbook is adapted from the virtual hand book, *Expect Success*, created by Disability Services at the University of Montana-Missoula.*