

How to Fail a Student with a Disability

(Adapted, with thanks, from The University of Montana DSS webpage)

This may sound flippant, but this question is frequently asked and, yes...a student with a disability has a right to fail like anyone else!

The question centers on compliance with the civil rights laws that prohibit discrimination. These laws mandate access to education... not guaranteed academic success. When a faculty member has done all that is required to assure equal access, then flunking the ill-prepared or under-qualified student is proper and lawful...regardless of disability. ACCESS is available to make sure everyone stays in compliance with federal regulations. This is for the protection of faculty, students, and the institution.

Here's a compliance checklist for your reference:

- Stand by academic standards and freedoms. Maintaining academic standards for all students assures equal and non-discriminatory access to education. Do not give "mercy" grades. These are demeaning and discriminatory.
- Communicate clear and concise expectations for performance to your students. This is best done through your written syllabus. Care should be taken to distinguish between essential and non-essential components of the course.
- Notify all students of your willingness to support students with disabilities. This can be done verbally during lectures and/or in writing within a course syllabus. The Office of Civil Rights recommends both verbal and written notification and suggestions for syllabus statements are available from ACCESS.
- Require DSPS verification of all disability related accommodation requests. Requests are substantiated through verification of disability and resulting educational limitation. Written verification will come to faculty from ACCESS. Students requesting accommodation without verification from ACCESS should be referred back to this office.
- Facilitate the reasonable accommodations authorized by ACCESS. Accommodations are changes in the way requirements are accomplished and should affect only non-essential elements of a course. They are reasonable so long as course standards and method of delivery are not fundamentally altered.
- Facilitate testing accommodations indicated by ACCESS. 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. Instructors may accommodate independently or use ACCESS test accommodation services.
- Permit students to use auxiliary aides and technologies that ensure access. Depending on the disability, students may need note takers, sign language interpreters, readers, scribes, and personal assistants. Others may use digital recorders, computers, assistive

listening devices, calculators and other technologies for the same purpose. ACCESS will provide specific information regarding needed technology.

- Make sure all websites, videos, films, or other required media, are accessible. This is required by state and federal law. ACCESS can help you determine accessibility of any media you use.
- Make adjustments in your instructional style as needed. Some students need lecturers to face the audience while speaking. Others may need written or graphic information spoken aloud or described. Adjustments such as these, that do not fundamentally alter the nature of the course, should be made if the student requests them.
- Maintain disability-related discussions and information in strictest confidentiality. Avoid reference to a student's disability in front of the class or in public. Do not discuss a student's disability with other instructors. The student's right to have information held in confidence is legally guaranteed and clearly outlined in FERPA-The Family Education and Right to Privacy Act.

And there you have it! If compliance checks out... if equal access has been assured... flunk the student who isn't "otherwise qualified." We protect the student's right to succeed ... or fail ... as their own accomplishment. Although it is possible for any student to complain, it is another matter entirely to show discrimination when faculty and staff have complied with both the spirit and the letter of the law.

For more information, give us a call or stop by for a visit to ACCESS in Student Services, 760-366-3791, ext 5861.