



# 2015 IMPLEMENTING GUIDELINES FOR TITLE 5 DSPS REGULATIONS

Chancellor's Office, California  
Community Colleges  
Student Services Division  
Disabled Student Programs and Services

Revised Guidelines based on the 2015 Title 5 Rewrite  
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## 2015 Implementing Guidelines for Title 5 Regulations

### PREAMBLE

In 2015 the California Community Colleges Board of Governors approved new Title 5 regulations, which take effect July 1, 2016. Prior to this approval the Chancellor's Office, in 2013, convened a Title 5 Workgroup which was comprised of stakeholders representing every aspect of DSPS operations, from CEO's and CSSO's to coordinators/directors/ faculty senate representatives, counselors, LD specialists and DHH, ID and CAPED representatives. This group met regularly to review the regulations, reporting to and advising their constituencies, drafting new sections, updating terminology, and clarifying language. This workgroup also drafted new guidelines reflecting the new regulations. Therefore, these *Implementing Guidelines for the Title 5 Regulations for Disabled Student Programs and Services* (DSPS) represent the consensus of the Chancellor's Office regarding interpretation of the regulations.

It is the intent of the guidelines to provide greater detail to assist DSPS staff and best practices for implementing the changes in their programs. The *Guidelines* are designed to provide technical assistance to college staff in administering DSPS programs. They provide guidance to the colleges in their legal and fiscal responsibilities to DSPS and students with disabilities.

It is important to note that the *Guidelines* are not regulations which have gone through the full regulatory approval process. College staff are encouraged, but not required, to use the *Guidelines* in administering the DSPS programs. It is the responsibility of the colleges to establish programs, policies, and procedures which meet the requirements of these and other relevant statutes and regulations. College staff should also note that the *Guidelines* are subject to change as regulations and/or interpretations change. Copies of any changes will be distributed to the colleges by the Chancellor's Office.

This document includes the Title 5 Regulations for DSPS (*Title 5, California Code of Regulations, Sections 56000-56076*), which includes new sections, sections that were rearranged, updated and/or repealed in October, 2015. The format of the document consists of the text of the Title 5 regulations (printed in small type) followed, where appropriate, by the Implementation and Documentation sections (in larger type). Electronic versions of the *Guidelines* may be obtained by accessing the [Chancellor's Office DSPS homepage](#).

**TITLE 5 REGULATIONS AND GUIDELINES**

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## ARTICLE 1 GENERAL PROVISIONS

### SECTION 56000. SCOPE OF CHAPTER.

This subchapter applies to community college districts offering academic adjustments, auxiliary aids, services and/or instruction through Disabled Student Programs and Services (DSPS), on and/or off campus, to students with disabilities pursuant to Education Code sections 67310-13 and 84850. Programs receiving funds allocated pursuant to Education Code section 84850 shall meet the requirements of this subchapter. Any academic adjustments, auxiliary aids, services and/or instruction funded, in whole or in part, under the authority of this subchapter must:

- (a) not duplicate services or instruction which are otherwise available to all students;
- (b) be directly related to the educational limitations of the verified disabilities of the students to be served;
- (c) be directly related to the students' participation in the educational process;
- (d) promote the maximum independence and integration of students with disabilities;
- (e) not include any change to curriculum or course of study that is so significant that it alters the required objectives or content of the curriculum in the approved course outline, thereby causing a fundamental alteration; and
- (f) support participation of students with disabilities in educational activities consistent with the mission of the community colleges as set forth in Education Code section 66010.4.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 66701, 67310-67313 and 84850, Education Code; and 42 U.S.C. Sec. 12101.*

#### **Implementation guideline**

The introductory paragraph of Section 56000 (Scope of Chapter) indicates that these regulations apply to all activities authorized under Education Code Sections 67310-12 and 84850. For districts, this means that these regulations apply to all activities funded in whole, or in part, by the State categorical allocation provided to serve students with disabilities through the Disabled Student Programs and Services (DSPS) in allowable expenses (Section 56064). These activities include academic adjustments, auxiliary aids and services as well as educational assistance classes for students with disabilities. Activities must adhere to the regulations whether or not they occur in general or educational assistance classes regardless of whether the class is offered on- or off-campus for credit, noncredit. It is important to note that since Community Service fee-based courses are not eligible for allowable cost funding, services

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provided to students with disabilities in such courses are not governed by these regulations. In addition, although the college has an obligation under federal and state non-discrimination laws (Section 504, the Americans with Disabilities Act and CA Government Code section 1135 et. seq.) DSPS funds cannot be used to provide these services. Therefore funding from other college sources needs to be obtained to provide the services.

Section 56000 also implements a requirement of Assembly Bill 746 (Chapter 829 Statute 1987) that expenditures under the DSPS program must conform to the six specified criteria outlined in “a thru f.” These criteria apply to funds for services to students with disabilities in public postsecondary education in California. The criteria are designed to ensure that DSPS services assist students with disabilities to equally participate in the instructional offerings of the college by providing “above and beyond” services to meet their disability-related educational limitations. The services should also foster independence and maximum integration into campus life for students with disabilities and be in conformance with the overall mission of the college.

More specifically, Subsection 56000 (a) prohibits provision of services or instruction which duplicate those otherwise available to all students. This means that services funded through the DSPS program should not replace or supplant existing general college services, but should go above and beyond those services in order to meet the needs of students with disabilities. Separate programs, classes, or services should only be established when general services or instruction, combined with the provision of academic adjustments, auxiliary aids, and services **do not** meet the educational needs of students with disabilities. Under Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 794), students with disabilities must have access to the general college services and instructional process. The DSPS program is intended to provide the additional, specialized support which allows students with disabilities to more fully access and benefit from the general offerings and services of the college. In regard to educational assistance instruction, classes must meet a unique instructional need directly related to the educational limitation.

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Subsection 56000 (b) requires that the educational need for the service must be directly related to the educational limitations of the verified disabilities of the student to be served. Thus, DSPS funds cannot be used to meet the needs students may have which do not result from their disabilities. For example, the DSPS program may provide specialized instruction to address a student's learning disability, but this should not include instruction designed to overcome learning problems attributable to linguistic or cultural differences. It may be valuable or even necessary for the institution to provide these types of instruction, they just cannot be paid for with DSPS funds.

Subsection 56000 (c) states that services or instruction must be directly related to the student's participation in the educational process. DSPS funds may only be used for services for a student enrolled in state supported educational programs or courses and be consistent with state policy and funding requirements. For example, DSPS funds cannot be used to provide services for students with disabilities in community service fee-based classes, since they are not state supported activities. DSPS funds cannot be used for services related to co or extra-curricular activities which are not part of a class or program. On the other hand, DSPS funds may be used to assist enrolled students with disabilities with access to other college programs such as Financial Aid, EOPS or tutoring which is a state funded program. In order for DSPS funding be used for activities such as field trips or co-curricular activities, they must be directly related to course requirements. In regard to activities on campus which are not directly related to the requirements of a class or to a state funded program, the college would be required under state and federal non-discrimination laws to provide such auxiliary aids and services as required by state and federal non-discrimination laws, however those must be paid for from revenue sources other than DSPS funds.

Subsection 56000 (d) mandates promotion of maximum independence and integration of students with disabilities. In keeping with the Americans with Disabilities Act and its amendments of 2008, this means that, to the maximum extent possible without fundamental alteration to instruction, students with disabilities should be served in integrated programs with

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the general student population. The provision of an academic adjustment or auxiliary aid does not mean the institution is required to make a fundamental alteration to the course. In other words, providing academic adjustments or auxiliary aids cannot substantially modify the basic required content, objectives, or goals of an assignment, course, program, or degree of study.

In keeping with this provision and recent court decisions and federal administrative direction related to the ADA, colleges should carefully examine segregated class offerings, especially those in off-campus settings to ensure they meet the criteria of maximum integration of students. In addition, as a general practice, students should not be limited or directed to off-campus segregated programs in lieu of attending general college classes with appropriate academic adjustments, auxiliary aids and services.

Subsection 56000 (e) requires that academic adjustments do not include any change to an approved course outline that is so significant that it alters the required objectives of the curriculum or course of study causing a fundamental alteration.

Subsection 56000 (f) requires that services and instruction be consistent with the purposes of the community colleges. Services should support students with disabilities in educational activities that comply with the mission of the college. These services may include integrating students with disabilities into the general college program; facilitating general education, transfer, or vocational preparation; increasing independence; and making referrals to community resources. Therapy and/or custodial care are not appropriate functions of the DSPS program. As an educational institution, the college is designed to help students acquire skills in a particular area. While this process may require more time due to the limitations from the disability and may require adapted instruction, its purpose should be instructional rather than therapeutic or recreational. Adaptive physical education/ kinesiology, for example, should serve as an adapted instructional mode for the learning of physical education skills—swimming, basketball, and general exercise—rather than as a method to engage in therapeutic activities.

## SECTION 56001. DEFINITIONS.

For purposes of this subchapter the following definitions shall apply:

- (a) Academic adjustments, auxiliary aids, and services: Academic adjustments, auxiliary aids and services, as used in this subchapter are any one or more of the services provided to DSPS students described in Section 56026 and/or educational assistance class instruction authorized under Section 56028.
- (b) Fundamental Alteration: A fundamental alteration means any change to a course curriculum or course of study that is so significant that it alters the required objectives or content of the curriculum in the approved course outline of the course.
- (c) Educational Limitation: An educational limitation means a disability related functional limitation in the educational setting. This occurs when the limitation prevents the student from having full access to and equal participation in the educational process including classes, activities, or services offered by the college to students without disabilities, without specific additional academic adjustments, auxiliary aids, services and/or instruction.
- (d) Educational Assistance Classes: educational assistance classes are instructional activities offered consistent with the provisions of Section 56000 designed to address the educational limitations of students with disabilities who are admitted to the institution pursuant to Educational Code Sections 76000 et seq. and who would be unable to substantially benefit from general college classes even with appropriate academic adjustments, auxiliary aids and services. This term replaces Special Classes, as used throughout Division 6 of Title 5.
- (e) Certificated staff: Certificated staff members are those who meet the minimum qualifications set forth in Section 53414 and 53420, Minimum Qualifications for Disabled Student Programs and Services Employees.
- (f) Academic Accommodation Plan: The Academic Accommodation Plan (AAP) is a record of the interactive process between each DSPS student and a DSPS professional staff member regarding the academic adjustments, auxiliary aids, services and/or instruction necessary to provide the student equal access to the educational process.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67313 and 84850, Education Code.*

### **Implementation guideline**

These regulations define the term certificated employee in section 56001 (e). However, [Education Code section 87001](#) explains that the term certificated employee has been replaced by and has the same meaning as academic employee. Therefore, wherever the term certificated employee is used in these regulations or guidelines, it means an academic employee who meets minimum qualifications set forth in Title 5 sections [53414](#), [53420](#) and 56048.

## **SECTION 56002. STUDENT WITH A DISABILITY.**

A “student with a disability” is a person enrolled at a community college who has a verified disability which limits one or more major life activities, as defined in 28 C.F.R. 35.104 resulting in an educational limitation as defined in section 56001. For purposes of reporting to the Chancellor under Section 56030, students with disabilities shall be reported in the categories described in Sections 56032-44.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code; and 28 U.S.C. Sec. 35.104.*

### **Implementation guideline**

Section 56002 gives the general definition of a student with a disability. To qualify, a person must:

- a) be enrolled in at least one or more credit or non-credit classes at a community college (see Section 56062);
- b) have a verifiable disability (see Sections 56032-44);
- c) be unable to fully benefit from the general programs and services offered by the college due to the educational limitation of a disability; and
- d) need specialized services or instruction in order to mitigate these disability-related educational limitations.

### **Documentation**

Documentation that students meet these criteria should be available in their files. These files should include but are not limited to the following:

- 1) A completed application for services and auxiliary aids;
- 2) verification of enrollment at the community college, supported by the district’s submittal of an SX record in the state MIS system;
- 3) Verification of disability and identification of educational limitation(s) due to the disability;
- 4) An Academic Accommodation Plan; and
- 5) Documentation of services provided.

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### *Per Title 5 Section 54300 of subchapter 4.5 Electronic Applications and Electronic Signatures*

“Community college districts may authorize the electronic submission of any admission form or student form or document. Electronic signatures in lieu of manual signatures may be used on any documents requiring a signature, providing the electronic signature meets the following standards, unless otherwise required to meet a higher standard under federal or state regulation or law:

- (1) It is unique to the person using it.
- (2) It is capable of verification.
- (3) It is under the sole control of the person using it.
- (4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.
- (5) It conforms to regulations adopted by the Secretary of State.

Prior to the electronic submission of any information, districts will inform applicants and students of the relative security of the information they submit electronically.”

DSPS coordinators or directors should work with their District regarding their policy and procedures regarding electronic signatures.

If the student is unable to sign due to the nature and/or severity of their disability, or because the student completed the required information online a certificated DSPS staff member may sign on their behalf, with a notation that a signature cannot be obtained.

## **SECTION 56006. DETERMINATION OF ELIGIBILITY.**

- (a) In order to be eligible for academic adjustments, auxiliary aids, services and/or instruction authorized under this chapter, a student must have a disability which is verified pursuant to subdivision (b) which results in an educational limitation identified pursuant to subdivision (c) of this section.
- (b) The existence of a disability may be verified, using procedures prescribed by the Chancellor, by one of the following means:
  - (1) observation by-certificated DSPS staff;
  - (2) assessment by certificated DSPS staff; or
  - (3) review of documentation by certificated staff provided by appropriate agencies or certified or licensed professionals outside of DSPS.
- (c) The student's educational limitations must be identified by certificated staff and described in the Academic Accommodation Plan (AAP) required pursuant to Section 56022. Eligibility for each service provided must be directly related to an educational limitation consistent with Section 56000(b) and Section 56001.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Section 56006 requires that every student participating in the DSPS program must have a verified disability. These procedures outline accepted practices and are intended as a guide to the college in the development of local DSPS policies and procedures which must meet regulatory requirements.

*General principles related to verification include:*

1. Maximum use of prior documentation from other entities;
2. Consideration of data/information from multiple sources;
3. The role of student self-report.

While it is important to verify that a student served by DSPS has a disability, in keeping with the 2008 amendments to the Americans with Disabilities Act, verification and documentation processes have been simplified and streamlined. It is critical to note that once a disability has been verified, the certificated DSPS staff person will need to utilize the interactive process to

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work with the student to identify the functional limitations in the educational environment and to determine the needed auxiliary aids, services, academic adjustments and educational assistance classes. In unusual cases where agreement cannot be reached between the student and the college staff, additional documentation of the impact of the disability on the student may be required.

Determination of disability should be performed in one of three ways:

- 1) Personal observation by a certificated DSPS staff member in conjunction with the student self-report, may verify the existence of an observable disability. This procedure should be used to verify conditions that can be readily identified or seen, e.g., quadriplegia, paraplegia, amputation, cerebral palsy, blindness or deafness. The observed disability and educational limitation(s) of the student must be documented in the student's file;
- 2) Certificated DSPS staff, may verify a student's disability based on existing documentation from another public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc. Emphasis should be given to the quality of the documentation rather than recency.
- 3) If the students' disability cannot be verified based on personal observation or a review of existing documentation, a certificated DSPS staff member, such as a Learning Disabilities Specialist, Psychologist, or Licensed Clinical Social Worker (LCSW) may document the existence of a disability based on their assessment of the student in accordance with their license or certification.

The disabling condition must be documented in the student's file with a statement of the student's educational limitation(s). The name and address of the professional and/or agency verifying the disability should also appear on the document. This documentation must be in the student's file along with a statement of the student's educational limitation(s).

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The ultimate responsibility of verification lies with the DSPS coordinator or director. The verification should identify and describe the student's disability and the educational limitations which inhibit the educational process. *(See Section 56030 Reporting Requirements for more information on the verification process and by specific disability in Sections 56032-44.)*

Requirements for verification of disability apply to all students receiving DSPS services or instruction, which includes students served at off-campus community-based facilities. If the verification is based on documents provided by a community-based facility run by the college, the college should advise the facility of its responsibility to provide accurate information for verification as outlined in methods 2 and 3 of Section 56006. Also, district and state auditors must be allowed access to records maintained at such facilities and, in the event that significant errors are discovered, the college must ensure that the verification procedures will be modified at the facilities.

### **Serving students with temporary disabilities.**

A broken leg or arm, a pregnancy-related disability condition, or recuperation from surgery are examples of temporary disabilities. Under the ADA and ADAA accommodations should be provided for these conditions. In many cases, a temporary disability will be readily observable and thus not require outside documentation. If a temporary disability is very short-term, 2-3 weeks, for example, the student can be referred to the instructor to discuss temporary adjustments. In the case on a longer-term temporary disability such as a pregnancy related disability spanning six months, the student can be served by DSPS. In which case DSPS has two options: 1.) have the student complete all of the DSPS eligibility requirements and paperwork, and if they meet the criteria set out in Section 56062 of these regulations, which states one contact per semester the student is using DSPS services, count them for funding purposes; or, 2.) serve them as a courtesy without completing the eligibility process and related paperwork in which case the student cannot be counted for funding purposes. Typical services might include utilizing on-campus transportation, a notetaker or scribe, and test proctoring. Students with temporary medical conditions or disabilities which are not observable may need to provide

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verification of the disability or medical condition. In many cases, a temporary disability is observable and a certificated staff member can document the condition for disability verification purposes. The student can then be counted for funding purposes for as long as the condition lasts, DSPS services are provided, and the appropriate DSPS paperwork has been completed.

### **Documentation**

The verification of the disability should be placed in each student's paper or electronic file. The verification should be identifiable as coming from the certificated DSPS staff member or by a representative from the agency providing the documentation.

## **SECTION 56008. STUDENT RIGHTS.**

- (a) Participation by students with disabilities in Disabled Student Programs and Services shall be entirely voluntary.
- (b) Receiving academic adjustments, auxiliary aids, services and/or instruction authorized under this subchapter shall not preclude a student from also participating in any other course, program or activity offered by the college.
- (c) All records maintained by DSPS personnel pertaining to students with disabilities shall be protected from disclosure and shall be subject to all other requirements for handling of student records as provided in Subchapter 6 (commencing with Section 54600) of Chapter 5 of this Division.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67313 and 84850, Education Code.*

### **Implementation guideline**

While most students with disabilities will choose to receive any needed academic adjustments, auxiliary aids, and services from DSPS, in rare cases, students may choose not to participate in the DSPS program. In such cases, students should be referred to the college Section 504 or ADA Coordinator/Compliance Officer who would typically be assigned to verify the student's disability, engage in the interactive process to determine needed supports, and ensure their provision in a timely and effective manner. In such cases, neither DSPS funding nor DSPS funded staff may be used to provide the services to assist such students.

All records maintained by DSPS personnel pertaining to students with disabilities shall be protected from disclosure and shall be subject to all other relevant statutes and regulations for handling of student records.

[The Family Educational Rights and Privacy Act](#) (FERPA) requires the college to have a policy about releasing records and student information. Student records include any and all records in any medium, maintained by the college which are directly related to a student. The classification of student records in the California Community Colleges is discussed in Sections [59023](#) and 59025.

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In general any document identified as a student record is governed by FERPA except for special circumstances such as medical or mental health treatment notes made by College Health Services or campus police records.

It is advisable to develop policies and procedures for the release of DSPS records which are congruent with the college's general policy on records.

Once students reach 18 years of age or attends a postsecondary institution, they become "eligible students," and all rights formerly given to parents under Family Educational Rights and Privacy Act (FERPA) transfer to the students, unless the student is under a conservancy, in which case the authorized entity (family/agency) may make those decision on behalf of the student. It is advisable to obtain a copy of said conservancy records to ensure that the student's educational decisions have been abrogated to another.

Eligible students have the right to have access to their education records, the right to seek to have the records amended, and the right to have control over the disclosure of personally identifiable information from the records. Under FERPA, a school must provide eligible students with an opportunity to inspect and review their education records within 45 days of a request, and upon request provide copies of their education records.

It is best practice to encourage students to determine how best to share information regarding their disability and its educational limitations with faculty or other campus officials. Further, if a student requests accommodations that impact the student learning environment then the instructor, with the student's permission, may discuss the student's educational (functional) limitation(s) and the appropriate accommodation with certificated DSPS staff members. It is not advisable to disclose the nature and origin of the student's disability to the instructor or other college staff, unless the student poses an imminent danger to self or others, where in such instances the college should follow its general code of conduct, health & safety, and/or emergency situation procedures, as necessary.

### **Documentation**

A release of information should be in the student's file and signed by the student if any information is released regarding the student's disability. If the student refuses to sign or is unable to sign a release of information because of a disabling condition or because this is in an electronic format, a notation to that effect should be made in the student's file that verbal authorization was provided.

## **SECTION 56010. STUDENT RESPONSIBILITIES.**

- (a) Students receiving academic adjustments, auxiliary aids, services and/or instruction under this subchapter shall:
- (1) comply with the student code of conduct adopted by the college and all other applicable statutes and regulations related to student conduct;
  - (2) be responsible in their use of DSPS services and adhere to written service provision policies adopted by DSPS; and
  - (3) when enrolled in educational assistance classes, make measurable progress toward the goals developed for the course as established in the student's Academic Accommodation Plan (AAP) or,
  - (4) when the student is enrolled in general college classes, meet academic standards established by the college, as applied to all students, pursuant to Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.
- (b) A district may adopt a written policy providing for the suspension or termination of DSPS services where a student fails to comply with subdivisions (a)(2), (a)(3) or (a)(4) of this section. Such policies shall provide for written notice to the student prior to the suspension or termination and shall afford the student an opportunity to appeal the decision. Each student shall be given a copy of this policy upon first applying for services from DSPS.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

A student with a disability, like any other student on the campus, must adhere to the student code of conduct adopted by the college, with or without accommodations. Termination of services, suspension, or expulsion related to behavior which violates the code of conduct, must go through the same procedures as with any other student. It is critical to note that, in this process, college officials and the student should consider if there is an accommodation which does not pose a fundamental alteration which can assist the student to comply with the code of conduct.

Regarding the use of DSPS services, a college may also adopt a written policy providing for the suspension or termination of DSPS services where a student repeatedly fails to be responsible in their use of DSPS services and adhere to written service provision policies adopted by the college. Colleges should consult their Legal Counsel in the development and implementation of

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such policies and should only terminate services for students no longer eligible to attend the college. When adopting such policies they should be aligned with other college policies on use of campus services and should be uniformly applied to all students receiving the specific services.

The service suspension or termination policies shall be given to each student upon applying for DSPS services. The policy should include a process were a student is:

- 1) provided with a written notice informing the student of the reasons for the impending suspension or termination of services;
- 2) permitted the opportunity to appeal the decision to suspend or terminate their services; and
- 3) provided with either a written notice of the resolution arrived at during the appeal process to continue services or a final notice for the suspension of services and the timeline and process for reinstatement of the services.

### **Documentation**

Documentation that verifies that the student was notified of all policies dealing with the rights and responsibilities in receiving DSPS services should be in the student's file. In order to suspend or terminate DSPS services to a student there should also be a copy of all notices sent to the student about the student's abuse of DSPS services, all documents of the appeal process, and a copy of the notification of the outcome of the appeal, in the student's file.

## **ARTICLE 2 DSPS SERVICES**

### **SECTION 56020. AVAILABILITY OF SERVICES.**

Each community college district receiving funds pursuant to this subchapter shall employ reasonable means to inform all students and staff about the availability of academic adjustments, auxiliary aids, services and/or instruction.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

#### **Implementation guideline**

Information describing the availability of academic adjustments, auxiliary aids, services and/or instruction will be readily accessible to students, faculty and staff of the college. For example, the information should be accessible and available on the college website, in the college catalog, and discussed in orientation, as well as in the DSPS Office. In addition, this information should be readily available upon request in alternate formats.

## **SECTION 56022. ACADEMIC ACCOMMODATION PLAN (AAP).**

Each college shall generate an Academic Accommodation Plan (AAP) and maintain a record of the interactive process between each DSPS student and a DSPS certificated staff member regarding the academic adjustments, auxiliary aids, services and/or instruction necessary to provide the student equal access to the educational process, given the educational limitations resulting from the student's disabilities. In addition, when a student is enrolled in educational assistance classes the AAP shall define measurable progress toward the goals of each class.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code*

### **Implementation guideline**

*The section was previously entitled "Student Education Contract."*

As per the original intent of the [Americans with Disabilities Act \(ADA\) and the subsequent 2008 amendments to the ADA](#), and as described in the Association on Higher Education And Disability (AHEAD) document "[Supporting Accommodation Requests: Guidance on Documentation Practices, 2012](#)", there must be an individual "deliberative and collaborative process" on the part of the college with each student requesting academic adjustments, auxiliary aids services and/or instruction for their disabilities and the resulting educational limitations.

The "deliberative and collaborative process" may be documented through standardized forms as described below in the "Documentation" section, and/or through narrative notes describing the interaction(s) between certificated DSPS staff and the student.

The Academic Accommodation Plan (AAP) may take different forms and have different titles at each college. The important factor is that there is a record of the academic adjustments, auxiliary aids services and/or instruction approved for each student. There may be a single accommodation plan generated when the student first applies for DSPS services, which is then referred to while determining appropriate academic adjustments, auxiliary aids and services per class, per academic term. Or there may be multiple accommodation plans, which list the academic adjustments, auxiliary aids services and/or instruction determined and documented for each class in each academic term. Regardless of the format, the requirement is that there

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must be a record of the interactive process and the academic adjustments, auxiliary aids services and/or instruction that have been approved for the student for each class.

### **Documentation**

An Academic Accommodation Plan may be in print, electronic, or other form. There must be some indication of interaction between the student and the college, which may take the form of a signature on a paper form. It may also be indicated through an electronic signature, an email, text or other electronic/digital communication which is identifiable as coming from the student.

If the student is unable to sign due to the nature and/or severity of their disabling condition, a certificated DSPS staff member may sign on their behalf, with a notation that a signature cannot be obtained.

There must be a record of academic adjustments, auxiliary aids, services and/or instruction approved for each term/semester the student has requested accommodations.

## **SECTION 56026. ACADEMIC ADJUSTMENTS, AUXILIARY AIDS AND SERVICES.**

Academic Adjustments, Auxiliary Aids and services are those specialized aids, devices and/or services available to students with disabilities as defined in Section 56002, which are in addition to the general services provided to all students. Such services enable students to participate in general activities, programs and classes offered by the college.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

All colleges should offer academic adjustments and auxiliary aids and services which are not fundamental alterations to the approved course outline and curriculum. Generally, these include interpreters, real time captioners, notetakers, recording of lectures, class aids for lab courses or hands-on tasks, test proctoring, disability related counseling, liaison with faculty and staff including agreement on academic adjustments, and the provision of assistive technology. In addition, a college will elect to offer additional services based on the needs of the population of students with disabilities served. All services addressed in Section 56026 are discretionary notwithstanding State and Federal law. The college can determine which services are best provided by the DSPS office or by other departments on the campus.

It is important to note that some services which may be needed by students with disabilities related to personal care or study, such as assistance with behavior or toileting, homework and/or tutoring are not required to be provided by the college under current statute or regulations for Section 504 or the ADA and its amendments. In such cases, DSPS generally provides suggestions to students for securing support or may work with them or their advocates to complete volunteer agreement processes for assistants provided by other sources to assist the student.

If the college chooses to provide certain services outside of the DSPS office (i.e., parking permits, or arranging for accommodations for community service classes or extra-curricular activities not related to a class such as the provision of interpreters for a student who is deaf in

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a debate club, etc.), these services cannot be counted as DSPS contacts with the students and DSPS funds cannot be used to support them.

Academic adjustments, auxiliary aids, services and/or instruction should be available and provided in a timely manner, if needed, at all locations of the college, such as off-campus centers and the students enrolled exclusively in Distance Education courses.

If the college operates a middle college or other programs for high school students, it is considered a best practice to delineate the responsibilities of the college and the secondary school through the development of a memorandum of understanding (MOU) regarding which entity will arrange and pay for necessary academic adjustments, auxiliary aids and services. In the case of Distance Education classes at other institutions, ensure the district has an MOU or contract with the entity providing the classes to ensure timely provision of academic adjustments, auxiliary aids and services.

In determining the most appropriate and individualized academic adjustments, auxiliary aids and services, it is important that the decision is reached through an interactive discussion with the student and documented in the Academic Accommodation Plan. This overall planning for appropriate academic adjustments, auxiliary aids and/or services is commonly facilitated by certificated staff members such as a DSPS Counselor, Coordinator, LD Specialist, HTC Specialist or Alternate Media Specialist.

Timely access to the most appropriate academic adjustments, and auxiliary aids and services is critical in enabling students with disabilities to benefit from equal access to the college offerings. As required under that ADA and its amendments, considerable weight should be given to the auxiliary aid choices of the student who has sensory disabilities. Thus, if a student who is blind requests material in Braille, it should be provided in a timely manner if at all possible. If this cannot be done, the interactive process should be used to identify interim modes of service which can provide timely equal access to educational material while keeping in mind the initial choice of the student regarding the mode of accommodation.

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The world of technology innovation grows exponentially. New devices and software are produced rapidly. In addition, new patterns of service may emerge over time to meet the needs of students with disabilities. Therefore the list below is meant as guidance on the types of auxiliary aids and services currently available, but it is by no means a definitive list of what DSPS can purchase and use to meet the needs of students with disabilities.

### ***Auxiliary Aids***

**Alternate Media** – Federal and state law require community colleges to operate all programs and activities in a manner that is accessible to students with disabilities. The terms “alternate media” or “accessible formats” are synonymous for the purpose of this definition and refer to methods of making information accessible to persons with disabilities. The most common types of alternate media are audio files, Braille, tactile graphics, taped tests, large print, and electronic text.

**Assistive Listening Devices (ALD)** – Any device that helps a student mitigate hearing loss such as an FM, Infrared or loop system. These devices separate the sounds, particularly speech, that a person wants to hear from background noise. They improve what is known as the “speech to noise ratio.” This term does not include hearing aids which are considered personal devices and not funded through DSPS.

**Assistive Technology (AT)** – AT is any durable piece of equipment; hardware such as keyboard, or monitor; or software such as screen reading technology, word prediction, or print enlarger, that has been adapted or modified to mitigate the effects of disability. This also includes any specialized training to utilize assistive technology hardware and software through individual or small group training in order for the student to be an independent user.

**Calculator and Spell Checker** – A calculator is a tool that assists a student in performing basic computations or logarithmic functions. Spelling is considered incidental to overall composition and it is not overtly taught in the college setting, except in a Spelling course. Therefore, it can be accommodated with appropriate tools (electronic spell checkers, computer spell checking functions, and/or hand-held spelling dictionaries, such as the “Misspeller’s Dictionary”).

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**Computer Assisted Real-Time Transcription (CART)** – CART (speech-to-text) uses a person specially trained to transcribe speech into viewable text, using a computer and an input device especially designed for this purpose. With CART, a student who is hard-of-hearing, deaf or has other disabilities can follow the text of what instructors or classmates are saying within a second or two of them speaking. CART also allows saving the transcribed text as a computer file that can be provided to the student for additional review. Typically, these transcribed files are not edited for content and are often word for word the contents of the lecture.

**Sign Language Interpreter (SLI)** – In an educational setting, an SLI facilitates communication between a student who is deaf and instructors, classmates, and college staff (i.e., student services personnel, instructional support staff).

### *Services*

**Assessment** – Assessment is the process by which functional educational limitations, academic readiness, and vocational interests, as well as verification of disability are evaluated for a student with a disability. Any assessment conducted by the DSPS program must not replace or supplant existing general college assessment services. For learning disabilities assessment the California Community College - Learning Disabilities Eligibility and Services Model, approved by the Chancellor's Office can be used to verify eligibility of a student with a learning disability.

Counseling includes: **Academic counseling/advising** – An interactive session between a student and DSPS counselor or LD Specialist for the purposes of developing an Academic Accommodation Plan, identifying and mapping classes for a major/minor, discussing academic progress, or student success issue. Issues may include study skills (i.e., enhancing memory, time management, academic coaching). Counseling can be face-to-face, over the telephone, email, or other non-face-to-face methods. **Disability-related Counseling** – An interactive session for the purpose of discussing how the student's disability impacts them in the college setting and the accommodations needed to address the functional limitations of the disability in the educational setting. The counseling may include discussion of physical, cognitive, behavioral, and social aspects of disability management in the college setting. **Personal Counseling** –An

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interactive session to assist a student resolve issues that may be preventing the full achievement of educational, social, or vocational/career goals. Issues may include personal behavior, substance abuse, mental illness, or any personal issue that affects education the student requests assistance resolving. However, personal counseling does not mean therapeutic interventions.

**Job Placement** – job development and development services related to transition to employment.

**Liaison/Referral** to Instructors, college and community resources – Referrals to on-campus offices (i.e., instructors, Financial Aid, Job Placement, EOPS) and community resources (i.e., Department of Rehabilitation, community shelter, social welfare agencies) are generally made during a personal counseling appointment and this service would usually be recorded as a part of the contact counted in a regular counseling session.

**Notetaker Services** – A volunteer notetaker is a student registered in the same class as notetaking services are being requested. The duties of the notetaker are to take class notes for themselves and to share these notes with the DSPS student at the end of each class meeting. DSPS usually provides specially treated notetaking paper (NCR) to the DSPS student, or if preferred, the original class notes can be copied by the DSPS office.

**Mobility assistance (on-campus)**, includes physical assistance directly related to participation in an instructional activity such as assisting a student who is blind in an anatomy lab.

Mobility assistance also includes **on-campus manual or motorized transportation** to and from college courses and related educational activities including the provision of tram services. Specialized transportation around campus may be the best method of ensuring equal access on large campuses, or difficult terrain.

**Orientation** – The purpose of an orientation is to familiarize the student with DSPS services and community resources that will support them academically. Specialized orientation to the college and DSPS is considered part of the matriculation process.

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**Registration Assistance** – Granting a student permission to register for classes before the general student population in order to appropriately accommodate disability-related issues.

**Priority registration** is often used as a cost effective way to provide accessibility for students with disabilities. For example, allowance of lead time to secure the accommodation of the alternate text in a timely manner. The unit requirement and other student success requirements must still be met by DSPS students unless they are certified as needing priority registration as an accommodation, in which case these requirements do not apply. Registration assistance also refers to physically helping the student register for classes, as well as providing advice on particular classes to register for.

**Reader Services** –This service includes the coordination and provision of a live, human reader to read print class-required material if access is unavailable in other suitable modes (e.g., alternate media, audio file). Under the provisions of the Cooperative Agreement between the Department of Rehabilitation and the state Chancellor’s Office, students who are clients of the Department of Rehabilitation (DR) should receive reader services from the Department of Rehabilitation.

**Scribe Services** – This service involves writing student's responses (verbatim) when a student is unable to physically enter data during the class session and/or test. This may include the manual manipulation of instructional materials, such as in-class completion of handouts or worksheets.

**Speech Services**—This service may include assisting students with speech impairments through disability management counseling and advocacy with instructors and other college. Speech therapy is not a service to be funded by DSPS.

**Test-taking facilitation** – This service involves, arrangement, proctoring, and modification of test and may include extended time on quizzes, tests, and exams, distraction reduced setting, the use of noise canceling headphones or earplugs, a remote site from the classroom to allow the student to read a test aloud or verbalize answers prior to recording them, or any

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combination of services and accommodations that reduce visual or audible stimulation or allow a student to verbalize without causing a distraction to other students;

**Tutoring Services**—Under Section 504 of the 1973 Rehabilitation Act, students with disabilities must have access to general college services. The DSPS program may offer specialized tutoring services; but the services must be disability-related tutoring rather than general tutoring available through the Learning Center, EOPS, or other sources. DSPS funds are intended to provide additional specialized support that allows students with disabilities to more fully access and benefit from the general offerings and services of the college. In addition, Title 5 regulations prohibit provision of services or instruction that duplicate those otherwise available to all students. Therefore, DSPS tutoring services must neither replace nor supplant existing general college tutoring services.

Colleges should only establish separate programs, classes, or services when general services or instruction, combined with the provision of academic adjustments, auxiliary aids and services, cannot meet the educational needs of students with disabilities.

**Co-curricular Activities**—If the co-curricular activity is a part of a requirement of a course in which the student is enrolled, the accommodation provided to the student with a disability may be funded by DSPS funds. If the co-curricular activity is not a course requirement to the individual student, i.e. graduation, college plays, sports, etc., it is the responsibility of the college to provide the accommodation. The college may use the DSPS office as a resource for information on the accommodation, but not as a source of funding for the accommodation.

**NOTE: Transportation Assistance (off-campus)** – Off-campus accessible transportation must be provided when needed by a student with a disability if the college provides transportation for students without disabilities. This is a college responsibility, not a DSPS responsibility. This requirement includes transportation for field trips and other instructional activities where transportation is provided for all students. DSPS is usually involved in working with instructors/facilities in ensuring accessible transportation is available.

### **Documentation**

To demonstrate compliance with Title 5, Section 56026, the college should maintain records of the services provided to students with disabilities. If using outside agencies to provide services record the number of hours, pay rate, names of providers, and the identification of the disability and educational limitations requiring the service.

With regard to the provision of special off-campus transportation in cases where the college does not provide transportation to students without disabilities, the college must verify and document the inadequacy of accessible transportation in the community and submit this documentation to the state Chancellor's Office for a determination of whether off-campus accessible transportation can be funded through the DSPS program.

## **SECTION 56027. ACADEMIC ADJUSTMENTS.**

Each community college district receiving funding pursuant to this subchapter shall establish a policy and procedure for responding to, in a timely manner consistent with Section 53203 of this division, requests involving academic adjustments. This procedure shall provide for an individualized review of each request. The procedure shall also permit the Section 504/ADA Coordinator/Compliance Officer, or other designated district official with knowledge of accommodation requirements, to make an interim decision pending a final resolution.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

State and federal nondiscrimination laws related to students with disabilities require that academic adjustments, auxiliary aids, and services are provided in a timely and effective manner to ensure equal opportunity to students. In some cases, the college and the student cannot agree on such requirement even though they have engaged in a thorough interactive process.

In order to ensure colleges are meeting the legal requirements, each community college district receiving DSPS funding shall establish a policy and procedure for responding, in a timely manner, to accommodation requests involving academic adjustments, auxiliary aids and/or services in dispute. In keeping with shared governance principles, the policy should be developed with the involvement of key stakeholders including, but not limited to, the Academic Senate, the DSPS coordinator or director, and the college 504/ADA Coordinator/Compliance Officer. This policy also shall clearly explain the District appeals process, in addition to other avenues for filing a grievance such as through the Chancellor's Office or directly with the US Department of Education's Office for Civil Rights which oversees Section 504 and ADA compliance for colleges and universities receiving federal funding. This procedure should provide for an individualized review of the disputed request. In addition, since the timely provision of the academic adjustment, auxiliary aid, or service is critical to student success as well as to the requirements of the law, the procedure should also permit the Section 504/ADA Coordinator/Compliance Officer, or other designated officials that have knowledge of academic

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accommodation requirements, to make an interim decision pending final resolution. While there is no standard definition for timely provision of such supports, the most critical element should be the provision of the adjustment, aid, or service in time to ensure that the student is able to keep up with the assignments, workload, and quizzes and examinations of the course along with all students, including their non-disabled peers.

A district/college decides whether a college needs to obtain local Board approval for a policy dealing with academic adjustments. Academic adjustments include the provision of extra time for “hands-on tasks” or changes to tasks or assignments which are not fundamental alterations as well as options for a course substitution or waiver.

### **What Constitutes a Fundamental Alteration?**

A "fundamental alteration" is a change that is so significant that it alters the essential nature of the approved course outline of record and the objectives of an individual course or course of study. Academic adjustment does not mean fundamental alteration.

There may be times that the student requests an accommodation that a professor believes may compromise the academic integrity or create a fundamental alteration of the course and/or program. In such cases, the college must objectively seek to determine whether an accommodation fundamentally alters the nature of a course. To undertake this process faculty and DSPS staff will need to work together to:

- Identify the essential academic standards of the course as delineated in the course outline of record rather than in a syllabus for a particular class. These requirements address the very nature of the subject matter and are of the utmost importance in achieving the course/program objective.
- Articulate specific requirements that individual instructors believe are fundamental to teaching the course/program.
- Identify the unique qualities of the course/program in relation to its overall objectives and any program in which the course is required.

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- Engage in "reasoned deliberation" as to whether modification of an assignment, course/program would change the fundamental academic standards, and
- Determine whether there are any options to the fundamental requirements of the assignment, course/program. For example do all instructors teaching the same course have the same requirements?
- Why is the standard that the instructor believes will be lowered important to the course/program?
- Will the requested accommodation lower the academic standards of the course/program?
- Can a different method or requirement that will not be altered by the accommodation achieve the required academic or pedagogical result? Consult with peers on the DSPS listserv, CAPED or AHEAD for guidance. It is important to note that the fact that a requested accommodation has not been made before or is not typically being made, is not sufficient to constitute a fundamental alteration.
- The decision to assert a fundamental alteration and deny an accommodation should not be taken lightly. Institutions have found themselves in legal trouble for devoting insufficient thought to the conclusion that a requested accommodation should be denied. If the college seeks to be well prepared to address potential discrimination complaints, it is essential that a thorough, deliberative, fair, and well-documented process be undertaken to determine if a requested accommodation represents a fundamental alteration to the curriculum.

Answering the above questions and documenting the process will allow instructors to establish that they have carefully evaluated the awarded accommodation and the course/program objectives. Failure to provide a reasonable accommodation to a student with a disability is a violation of law, putting in jeopardy an institution's federal funding. However, disability laws

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also require that students with disabilities meet the "essential," "academic," and "technical" standards of the class/program/college.

**Situation:** A student who is blind enrolls in a math class and requests that the instructor verbalize what s/he is writing on the board or overhead.

**Fundamental Alteration or Not?** NO. Under the law and regulations, the faculty member would be legally required (as well as ethically obliged) to make an adjustment in presentation of course material by verbalizing what is written on the board or overhead. Pointing and referring to "this" and "that" as written on the board would not give the student with a visual disability equal access to the instruction. An added benefit is that verbalizing material rather than just writing it can assist all students because the information presented is more explicit.

**Situation:** A student with a reading disability requests that the instructor provide information about obtaining the textbook that will be used in an upcoming semester in a digital format.

**Fundamental alteration or Not?** NO. Faculty are expected to meet the bookstore deadlines for textbook adoption. This is not an accommodation as such. It is simply a request for information, but timely textbook adoption is critically important for students with visual or reading disabilities. In cases such as this, it is highly advised that classroom faculty to consult with the DSPS office for further assistance.

**Situation:** A student in the occupational therapy assistant program who has a specific learning disability must evaluate a patient with Cerebral Palsy, review clinical tests and plan an appropriate intervention in a timely manner. She has requested that she be allowed to bring brief written notes into the evaluation and have extra time to read and digest the materials and patient responses.

**Fundamental Alteration or Not?** No. A college should determine the appropriate or essential requirements for a course of study, not the licensing requirements. Once essential functions and technical demands have been determined, teaching methods and learning activities can be established. The student must be permitted time for a "learning curve," like all other students.

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Allowing more time in a student's learning would be appropriate, such as permitting extended or extra practice sessions, use of notes or tape recordings.

**Situation:** A student tells you that s/he cannot complete writing assignments, with or without accommodations. The student requests that writing assignments not be included in his/her grade.

**Fundamental alteration or Not?** POSSIBLY. If submitting writing assignments is an essential requirement of the class (for example, in English Composition!) there would be no legal mandate to comply with the student's request to exclude those assignments from the grade, and may then be denied. If this was another class such as psychology, the deliberative process described above should be used to determine the college's response to this question.

**Situation:** A hospital program contends a deaf student can't hear a pulse so he can't take vitals which is an essential function of the clinical rotation.

**Fundamental alteration or not?** **No.** There are digital pulse readers so this accommodation must be considered, and with it a student can qualify to participate in their clinical rotation.

**Situation:** A student with a learning disability requests the use of a calculator and a multiplication table in a beginning arithmetic class. The instructor of the class is adamant that the accommodations should not be allowed. In his opinion, the ability to perform the actual calculations is a basic requirement of the class. The student asserts that they can do the analytical work but that sheer memorization is a disability related problem for them.

**Fundamental alteration or Not?** POSSIBLY. The key issue which needs to be analyzed to come to an appropriate conclusion is whether the ability to perform the arithmetic calculations without the stated accommodations is a fundamental academic requirement of the class. If it is a fundamental academic requirement, then the college would not be required to provide the accommodation. Critical factors to determine this include:

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Is the ability to perform the arithmetic calculations with aids included in the course outline of record maintained by the college? If the ability to perform these functions, specifically without aids, is in the approved course outline of record, then the college may consider asserting that it is a fundamental academic requirement. It is not obligatory that they take this stance, but it may be an indicator of whether or not the function is a fundamental academic requirement.

If the ability to perform the function without aids is not listed, what is the practice of other instructors of the same class at the college or of instructors of similar classes or other colleges?

If the practice regarding the use of aids such as a calculator and multiplication tables differs between instructors, it is difficult to assert that it is a fundamental academic requirement.

### **Documentation**

This academic adjustments policy and related procedures must be readily accessible to students, faculty and staff of the college. For example: it should be accessible and available on the college website and in the college catalog as well as in the DSPS Office. In addition, the policy should be readily available upon request in alternate formats.

It is critical that the initial, interim and final response to request for academic adjustments, auxiliary aids and services disputes be examined in a timely manner and be documented along with timelines for responding.

## **SECTION 56028. EDUCATIONAL ASSISTANCE CLASS INSTRUCTION.**

Educational assistance classes are instructional activities offered consistent with the provisions of Subchapter 1 of Chapter 7 of this Division, and designed to address the educational limitations of students with disabilities who are admitted to the institution pursuant to Educational Code Sections 76000 et seq. and who would be unable to substantially benefit from general college classes even with appropriate academic adjustments, auxiliary aids and services. Such classes generate revenue based on the number of full-time equivalent students (FTES) enrolled in the classes.

Such classes shall be open to enrollment of students who do not have disabilities, however, to qualify as an educational assistance class, a majority of those enrolled in the class must be students with disabilities.

Educational assistance classes offered for credit or noncredit shall meet the applicable requirements for degree credit, non-degree credit, or noncredit set forth in Sections 55002 and 55705.5 of this part. In addition, educational assistance classes shall:

- (a) Be designed to enable students with disabilities to compensate for educational limitations and/or acquire the skills necessary to complete their educational objectives;
- (b) Employ instructors who meet minimum qualifications set forth in Section 53414 of this Division.
- (c) Utilize curriculum, instructional methods, or materials specifically designed to address the educational limitations of students with disabilities. Curriculum committees responsible for reviewing and/or recommending educational assistance class offerings shall have or obtain the expertise appropriate for determining whether the requirements of this section are satisfied; and
- (d) Utilize student/instructor ratios determined to be appropriate by the District given the educational limitations of the students with disabilities enrolled in each class. Class size should not be so large as to impede measurable progress or to endanger the well-being and safety of students or staff.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

*This section was previously entitled "Special Classes Instruction."*

#### **An Educational Assistance Class may be:**

- A distinct course, with its own Outline of Record, designed to meet the educational objectives of a specific disability population or, supplementing the objectives of an existing course with objectives that are unique to a specific disability population.

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- A section of an existing course taught in accordance with its Outline of Record, but supplemented with objectives to accommodate disability (or to accommodate a specific disability population).

In either case, educational assistance classes must be primarily instructional in nature, and cannot be designed to mainly offer group activities or services, e.g., physical activity, counseling, or assessment. Such classes shall be open to enrollment of students who do not have disabilities. However, to qualify as an educational assistance class, a majority of those enrolled in the class must be students with disabilities. The course description published in the college catalog may note that the course has been designed for students with specific disabilities, but it may not restrict enrollment to such students, nor require students to register for classes through the DSPS program or counselor, nor otherwise violate the open enrollment provisions of state law for the California Community Colleges.

The Educational Assistance Class Outline of Record should:

- a) Specify what disability or disabilities the course is designed to address;
- b) Clarify what objectives the course is to fulfill as they relate to these disabilities;
- c) Show why such a course is needed to meet this need, rather than the need being met through accommodation(s) in a general course;
- d) Specify how it will be determined that the objectives have been achieved; and
- e) Explain what disability-specific instructional methods, materials, equipment, etc., will be used and why.

Educational assistance class curriculum, as curriculum for all offerings of the college, must go through a review process for approval as established by the district and the state Chancellor's Office.

It is highly recommended that a DSPS staff member sit on the curriculum committee. Prior to submitting an educational assistance class to the curriculum committee, it is advisable to have

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the subject matter expert's review. This also facilitates integration of the DSPS program with the overall college program. DSPS staff designing curriculum should follow the policies and procedures outlined in the Curriculum Standards issued by the state Chancellor's Office.

The cost of educational assistance classes can be considered an appropriate DSPS expenditure if the educational assistance classes meet the criteria of Section 56028 and are approved by the appropriate process as established by the state Chancellor's Office. The DSPS Program/Unit Plan should list all of the educational assistance classes to be offered by the college.

The college is responsible for ensuring that the amount of funds the DSPS program receives accurately reflects the amount of FTES generated within the program.

### **Documentation**

The college should have verification of course approval by the college curriculum committee for each class offered. This documentation should be available in the Instructional Dean's or other designated staff persons' office. The DSPS coordinator or director should be aware of the location of this information and should have access to it when needed. In addition, the college/district personnel/credentials office should have minimum qualifications on file for all DSPS staff teaching educational assistance classes. Information documenting that educational assistance classes meet the criteria specified above will be required as part of the DSPS Program/Unit Plan.

## **SECTION 56029. EDUCATIONAL ASSISTANCE CLASS COURSE REPETITION.**

Repetition of educational assistance classes is subject to the provisions of article 4 (commencing with section 55040) of Subchapter 1 of Chapter 6 and Section 58161 of this Division. However, districts are authorized to permit additional repetitions of credit or noncredit educational assistance classes to provide an accommodation to a student's educational limitations pursuant to state and federal nondiscrimination laws. Districts shall develop policies and procedures providing for repetition under the following circumstances:

- (a) When continuing success of the student in other general and/or educational assistance classes is dependent on additional repetitions of a specific educational assistance class;
- (b) When additional repetitions of a specific educational assistance class are essential to completing a student's preparation for enrollment into other general or educational assistance classes; or
- (c) When the student has an Academic Accommodation Plan which involves a goal other than completion of the educational assistance class in question and repetition of the course will further achievement of that goal.

*NOTE: Authority cited: Sections 55040, 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code; and 29 U.S.C Sec.794.*

### **Implementation guideline**

*This section was previously entitled "Special Classes Course Repeatability."*

Section 56029 defines the circumstances under which educational assistance classes can be repeated above and beyond ordinary course repetition standards for credit courses as set forth in Sections [55040](#), [55761-63](#) and [58161](#) of Title 5.

A district may permit a student with a disability to repeat an educational assistance class, designed for students with disabilities, any number of times based on an individualized determination that such repetition is required as a disability-related accommodation for that particular student for one of the reasons specified below. ([§ 55040\(b\)\(7\).](#))

Districts shall develop policies and procedures that provide for course repetition under the following circumstances:

- a) When continuing success of the student in other general and/or educational assistance classes is dependent on additional repetitions of a specific class;

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- b) When additional repetitions of a specific class are essential to completing a student's preparation for enrollment into other regular or educational assistance classes; or
- c) When the student has an Academic Accommodation Plan which involves a goal other than completion of the educational assistance class in question, and repetition of the course will further the achievement of that goal.

Each district must establish procedures for tracking course repetitions and a process for students to invoke an educational assistance class repetition accommodation on a case-by-case basis.”

However, districts are authorized to permit additional repetitions of educational assistance classes to provide an accommodation to a student's educational limitations pursuant to state and federal nondiscrimination laws. Although colleges have the ultimate responsibility for setting policy on this subject, the regulation indicates that repetition should be permitted whenever it is necessary to allow the student to make progress toward fulfilling the goals of the Academic Accommodation Plan either by acquiring additional skills or by preparing for other courses. Thus, any repetition which facilitates measurable progress is permitted under Section 56029. Students may not audit educational assistance classes to avoid the limit on repetition.

It should be noted that although Section 56029 does not address additional repetitions of regular general classes, colleges are encouraged to provide for repetition of such classes where repetition is required for an individual student with a disability as reasonable accommodation under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) nor does Section 56029 impose limits on repetition of noncredit classes. Districts that do not offer noncredit may wish to enter into special arrangements with their K-12 counterparts to address the need for additional course repetitions.

Repetitions are allowed if the circumstances described in a), b), or c) of Section 56029 apply to the individual student's situation. How many times an individual student is allowed to enroll in

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adaptive physical education beyond the four semesters or six quarters depends on how long the circumstances apply. The college should have such students apply at each enrollment period for reevaluation of their circumstances.

### **Documentation**

Each district must establish procedures for tracking repetitions and a process for students to invoke an educational assistance class course repetition accommodation on a case-by-case basis. The DSPS program will need to monitor the information to assure that the above requirements are met. An educational assistance class repetition document that spells out the repetition criteria and is completed by both the student and certificated DSPS staff member would be advisable.

## **ARTICLE 3 REPORTS, PLANS AND PROGRAM REQUIREMENTS**

### **SECTION 56030. REPORTING REQUIREMENTS.**

Each community college district receiving funding pursuant to this subchapter shall submit such reports (including budget and fiscal reports described in Article 4) as the Chancellor may require. When submitting such reports, districts shall use the disability categories set forth in Sections 56032-44 and shall conform to the reporting format, procedures, and deadlines the Chancellor may additionally prescribe.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

#### **Implementation guideline**

In deciding on the specific disability of a student so that they may be reported in the most appropriate category for purposes of determining the DSPP allocation, the following factors should be taken into consideration:

- Verification of disability should not pose undue burdens on the student with a disability and thus multiple methods to indicate the presence of a disability should be utilized in the verification process.
- Verification of disability should provide for accountability to ensure that only students with disabilities receive DSPP services.
- To the greatest extent possible, students should be reported correctly to the Chancellor's Office by type of disability to support the allocation of accurate and equitable DSPP funding. However, if general verification of the presence of a disability is available, in the absence of additional specific documentation, DSPP certificated staff should grant significant deference to the student's history including past accommodations and services as well as behavioral observation in determining the disability category for reporting purposes.

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- DSPS certificated staff need to use a great deal of judgment when a student's disability is verified through the interactive process based on direct observation, student self-report and a detailed interview of the student's history and educational limitations. In some cases, (physical disability, blindness, or deafness) observation of the disability, combined with information from the interview, can easily provide sufficient documentation for verification of disability and reporting for allocation purposes.
- However, there are a number of disabling conditions such as Intellectual Disability (ID,) Mental Health Disability, Autism or those described in Other Health Conditions and Disabilities where the student's disability is sometimes discernable through direct observation combined with information from the interview undertaken in the interactive process such as an individual with Down's Syndrome or significant Tourette's Syndrome, but not in others such as a person with borderline intellectual ability or moderate mental health disability. For the disability categories of ID, Autism, Mental Health, and ADHD, verification of disability through direct observation combined with a detailed student interview should ONLY be used as the sole method of verification when the significance of the disability can be observed and the student can provide clear and specific information about their disability history. Further, the Chancellor's Office does not find direct observation and student self-report of disability history only, to be sufficient for the verification of LD or ADHD, although direct observation and/or student self-report could be components that are taken into consideration and used in the broader process of evaluation of needs, when meeting with a student.
- For auditing and accountability purposes, DSPS professional/certificated staff should carefully document the specific information from the student's history as well as their direct observation of the disability in the student's record when basing verification of disability OR assignment to a reporting category on direct observation and student history.

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- The Implementing Guidelines are NOT requirements, but ensure that audit requirements will be met if they are followed. If a college uses alternate methods in identification/verification of disability, the burden of proof that the verification correctly identified the disability condition is on the college.

In terms of reporting a student in a specific disability category, documentation from external sources which is used to verify a student's disability should be evaluated to ensure it speaks directly to the student's disability. As always DSPS staff should use their professional judgment in making their determinations.

### **Documentation**

The colleges will be required to complete and submit the reports described above. These reports shall be submitted on forms provided by the state Chancellor's Office, and delivered via the reporting infrastructure designed by the Chancellor's Office Management Information System (MIS).

State Chancellor's Office staff will in-service DSPS staff responsible for the compilation of this data. The colleges should maintain up-to-date files of the completed reports in the DSPS Office and the Business Office.

## **SECTION 56032. PHYSICAL DISABILITY.**

Physical disability is defined as a limitation in locomotion or motor functions. These limitations are the result of specific impacts to the body's muscular-skeletal or nervous systems, and limit the student's ability to access the educational process.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

A physical disability encompasses a wide range of conditions and results in a limitation in one or more of the following areas:

- a. Walking in terms of distance, length of time, or terrain
- b. Range of motion and /or reach
- c. Standing or sitting
- d. Cardio-pulmonary factors that affect breathing
- e. Other physical functions of the body

There may be various causes for a physical disability including congenital impairments, effects of disease, as well as traumatic incidents including accidents, combat, physical altercations, and other factors.

Examples of a physical disability include, but are not limited to, absence of a limb or limbs, paraplegia, hemiplegia, or quadriplegia, short stature, polio, Cerebral Palsy (CP) Multiple Sclerosis (MS), and Muscular Dystrophy (MD). A physical disability may also include the limitations which arise from significant back and lumbar problems, arthritis, and a wide range of other physical conditions.

It is important to note that students who have physical limitations which arise from an acquired brain injury should be reported under the category of acquired brain injury rather than physical disability.

In addition, students with physical limitations due to loss of sight, hearing, or psychological conditions should be reported under those categories rather than under physical disability.

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A physical disability can be verified by various methods described below.

- In conjunction with the student self-report, and direct observation by a certificated DSPS staff member during the interactive process.
- Existing documentation from a medical facility, another public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.
- Documentation from a physician, physician's assistant, or nurse practitioner.

After the existence of the physical disability has been verified, functional limitations in the educational setting may most often be identified through discussion with the student and the use of the interactive process. For the few instances when necessary, additional documentation may be sought from other sources. It is important to note that, except for the few circumstances when the physical disability is a temporary one, or one that may change over time, there is no need for the attainment of recent disability verification.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56034. DEAF AND HARD OF HEARING. (DHH)**

Deaf and Hard of Hearing (DHH) is defined as a total or partial loss of hearing function that limits the student's ability to access the educational process.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

*This section was previously entitled "Communication Disability."*

Deafness or Hard of Hearing means either total deafness or a hearing loss so severe that a student is limited in processing information through hearing, with or without amplification or other technology. Hearing impairment is defined as:

- 1) Deaf means a total or partial loss of hearing function so severe that it no longer serves as a major channel for information processing. For purposes of this definition, deafness is defined as a condition that requires the use of communication in a mode other than oral language including sign language, real time captioning or other visual or tactile means.
- 2) Hard of Hearing means a functional loss in hearing which is still capable of serving as a major channel for information processing.

Deafness or hard of hearing is interpreted to mean a functional loss in hearing and can be verified as follows:

- In conjunction with the student self-report, and direct observation by a certificated DSPS staff member during the interactive process of a cochlear implant or consideration of the student's oral communication or signing skills.
- By review of existing documentation from an audiologist, physician, physician's assistant, or nurse practitioner, other public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56035. BLIND AND LOW VISION.**

Blindness and low vision is defined as a level of vision that limits the student's ability to access the educational process.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Blindness or low vision results from a level of visual disability so significant that, without accommodation other than regular corrective lenses, vision no longer serves as a major channel for information processing. Blindness or low vision may be caused by a congenital condition, disease, or traumatic event including accident, combat, physical altercation, or other events.

If the visual loss is the result of psychological condition or an acquired brain injury (ABI), the student should be reported under either of these categories.

Blindness or low vision can be verified by various methods described below.

- In conjunction with the student self-report, and direct observation by a certificated DSPS staff member during the interactive process.
- Existing documentation from another public or private non-profit agency such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.
- Documentation from a physician, physician's assistant, or nurse practitioner.

Emphasis should be given to the quality of the documentation rather than recency.

After the existence of the blindness or low vision has been verified, functional limitations in the educational setting may most often be identified through discussion with the student and the use of the interactive process. Only when necessary, additional documentation may be sought from other sources.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56036. LEARNING DISABILITY. (LD)**

Learning disability (LD) is defined as a persistent condition of presumed neurological dysfunction which may exist with other disabling conditions. The dysfunction is not explained by lack of educational opportunity, lack of proficiency in the language of instruction, or other non-neurological factors, and this dysfunction limits the student's ability to access the educational process. To be categorized as a student with a learning disability, a student must meet the following criteria through psycho-educational assessment verified by a qualified specialist certified to assess learning disabilities:

- (a) Average to above-average intellectual ability; and
- (b) Statistically significant processing deficit(s); and/or
- (c) Statistically significant aptitude-achievement discrepancies.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Learning disabilities do not apply to learning problems resulting from any physical or visual disabilities, or hearing loss, psychological disability, or any health related disabilities. Learning disabilities can exist with other disabilities with the exception of an intellectual disability and an acquired brain injury (unless documentation of LD was present prior to sustaining the injury).

In keeping with the ADAA, when verifying LD, the first step is to work with the student to determine if existing documentation is available which indicates they have LD or received services or accommodations based on their LD. If so, this information is sufficient to verify the student has LD and to report them for funding in the LD category.

If there is prior documentation, LD can be verified:

- By a review, by a Learning Disability Specialist or other DSPS Certificated staff person of documentation provided by outside agencies or an outside licensed/credentialed professional that demonstrates the student meets the Title 5 definition of a learning disability.
- By the presentation to a Learning Disability Specialist, or if a Learning Disability Specialist is not available, to another DSPS Certificated staff person of a public or private school IEP or similar documentation, that designates a specific learning disability and

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through the interactive process it is determined that the student meets the Title 5 definition of a learning disability.

If there is no existing documentation which can verify LD, then an assessment should be conducted to verify if the student has LD. Such assessment should be conducted:

- By a Learning Disability Specialist using the Chancellor's Office officially approved California Community College Learning Disability Eligibility and Services Model (CCCLDESM); or
- Through the use of professionally accepted assessment measures which demonstrate that the student meets the Title 5 definition of learning disability. In such cases, the college must provide acceptable documentation to the Chancellor's Office for each student on 1) the reason(s) for not using the CCCLDESM and 2) justification on how the assessment process utilized meets professionally accepted standards for the determination of the presence of LD as defined in this section.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56037. ACQUIRED BRAIN INJURY. (ABI)**

Acquired Brain Injury (ABI) is defined as a deficit in brain functioning which results in a total or partial loss of cognitive, communicative, motor, psycho-social and/or sensory-perceptual abilities, and limits the student's ability to access the educational process.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

ABI is defined as an acquired brain injury or traumatic brain injury (TBI) that occurs during or after childhood and may come from a variety of causes such as a traumatic event, (accident, combat, physical altercation), or other medical conditions such as stroke or brain tumor, resulting in functional limitations that adversely affect or limit a student's educational performance by impairing:

- 1) Cognition, attention, memory, information processing, reasoning, abstract thinking, judgment, self-regulation and/or problem solving;
- 2) Language and/or speech;
- 3) Sensory, perceptual and/or motor abilities;
- 4) Psycho social behavior; or
- 5) Physical functions
- 6) Social skills (pragmatics) and/or
- 7) Behavioral issues.

ABI can be verified by:

- Student self report combined with direct observation by a DSPS certificated staff person during the interactive process, if the effects of the brain injury are observable in the student's speech, mobility, or behavior.
- Documentation from an appropriate licensed professional such as physician, neurologist, neuropsychologist, physician's assistant or nurse practitioner.

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- Documentation from another public or private non-profit agency such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.

Emphasis should be given to the quality of the documentation rather than recency.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56038. ATTENTION DEFICIT HYPERACTIVITY DISORDER. (ADHD)**

Attention-Deficit Hyperactivity Disorder is defined as a neurodevelopmental disorder that is a persistent deficit in attention and/or hyperactive and impulsive behavior that limits the student's ability to access the educational process.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Attention Deficit Hyperactivity Disability is a neurodevelopmental condition affecting both children and adults. It is described as a "persistent" or on-going pattern of inattention and/or hyperactivity-impulsivity that gets in the way of daily life or typical development. Individuals with ADHD may also have difficulties with maintaining attention, executive function (or the brain's ability to begin an activity, organize itself and manage tasks) and working memory.

In the most current American Psychiatric Association Diagnostic and Statistical Manual Attention Deficit Hyperactivity Disability is described as having 3 major presentations:

1. Inattentive
2. Hyperactive-impulsive
3. Combined inattentive & hyperactive-impulsive

In addition, as with other disabilities to be eligible for DSPS services, the student's ADHD must interfere with a major life activity and pose a functional limitation(s) in the educational setting.

An Attention Deficit Hyperactivity Disability can be verified by;

- Review by a DSPS certificated staff person of outside documentation by a professional with the appropriate license such as a medical doctor, physician's assistant, psychologist, or licensed clinical social worker or marriage and family therapist.
- Review by a certificated DSPS staff person of documentation from a public or private agency such as an IEP or Section 504 Plan or psychoeducational academic reports.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56039. INTELLECTUAL DISABILITY. (ID)**

Intellectual disability (ID) is defined as significant limitations both in intellectual functioning and in adaptive behavior that affect and limit the student's ability to access the educational process. An individual may have an intellectual disability when:

- (1) the person's functioning level is below average intellectual ability; and
- (2) the person has significant limitations in adaptive skill areas as expressed in conceptual, social, academic and practical skills in independent living and employment; and,
- (3) the disability originated before the age of 18.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

*This section was previously entitled "Developmentally Delayed Learner."*

An Intellectual Disability (ID) is characterized by significant limitations both in intellectual functioning and in adaptive behavior that affect many everyday social and practical skills. Adaptive skill areas refer to basic skills needed for everyday life. They include communication, self-care, home living, social skills, leisure, health and safety, self-direction, functional academics (reading, writing, basic math) and work.

This disability can be verified by a certificated DSPS staff member using the documentation from a referring agency. The student should be reported in the Intellectual Disability category by meeting one of the two standards described below:

- 1) the student has documentation from the Regional Center, school or other agency such as the Department of Rehabilitation identifying the student as having an intellectual disability or documentation that shows the student's earned standard score was less than or equal to 70 on an ability assessment procedure; or
- 2) the student has an earned score 84 or below on an ability assessment procedure and at least one of the seven following indicators
  1. history of special education

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2. history of sheltered or supported employment
3. history of unemployment or limited entry level employment
4. dependent/semi-independent living environment
5. client status with the state Department of Rehabilitation
6. client status with the Regional Center
7. academic skill deficiency

Students with Intellectual disabilities should be afforded access to the class/program that meets their educational needs and which promotes the maximum independence and integration with classmates without disabilities. Educational Assistance Classes, if provided, may be consistent with this requirement and may be offered either on- or off-campus

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56040. AUTISM SPECTRUM.**

Autism Spectrum disorders are defined as neurodevelopmental disorders described as persistent deficits which limit the student's ability to access the educational process. Symptoms must have been present in the early developmental period, and cause limitations in social, academic, occupational, or other important areas of current functioning.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Autism spectrum disorders are characterized by significant limitations and may include, but not be limited to any of the following:

- 1) Limitations in social-emotional reciprocity (e.g. abnormal social approach; failure of normal back-and-forth conversation; reduced sharing of interests, emotions, or affect; failure to initiate or respond to social interactions);
- 2) Limitations in nonverbal communicative behaviors used for social interactions (e.g. poorly integrated verbal and nonverbal communication; abnormalities in eye contact and body language; deficits in understanding and use of gestures; total lack of facial expressions and nonverbal communication);
- 3) Limitations in developing, maintaining, and understanding relationships (e.g. difficulties adjusting behavior to suit various social contexts; difficulties in making friends; absence of interest in peers);
- 4) Stereotyped or repetitive motor movements, use of objects, or speech (e.g. self-stimulation behaviors such as arm flapping, flipping objects, echolalia, idiosyncratic phrases);
- 5) Insistence on sameness, inflexible adherence to routines, ritualized patterns, or verbal nonverbal behavior (e.g. extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route every day, need to eat the same food every day);

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- 6) Highly restricted, fixated interests that are abnormal in intensity or focus (e.g. strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interest);
- 7) (7) Hyper- or hypo-reactivity to sensory input or unusual interests in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching of objects, visual fascination with lights or movement).

This disability can be verified by a certificated DSPS staff member using the documentation from a public or private agency that states the student meets one of the three criteria described below:

- the student is a client of the Regional Center identified as having autism spectrum disorder; or
- the student is a client of the Department of Rehabilitation identified as having autism spectrum disorder; or
- the student has documentation from a school psychologist, licensed psychologist, or physician identifying them as having autism spectrum disorder; or
- the student has an IEP or Section 504 Plan or a record of having received accommodations based on having autism spectrum disorder.

Students with autism spectrum disorders should be afforded access to the class/program, and academic adjustments, auxiliary aids and services that meet their educational needs and which promotes maximum independence and integration with peers without disabilities. Educational Assistance Classes, if provided, may be consistent with this requirement and may be offered either on- or off-campus. Preferential seating is optimal for students with sensory input reactivity.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56042. MENTAL HEALTH DISABILITY.**

Mental Health disability is defined as a persistent psychological or psychiatric disability, or emotional or mental illness that limits the student's ability to access the educational process. For purposes of this subchapter, conditions that are not described and/or excluded in the American Psychiatric Association Diagnostic and Statistical Manual (DSM) or the Americans with Disabilities Act (ADA) are not covered in this category.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-12 and 84850, Education Code; 42 U.S.C. Sec. 12101; American Psychiatric Association (2013). Diagnostic and Statistical Manual of Mental Disorders (Fifth ed.). Arlington, VA: American Psychiatric Publishing.*

### **Implementation guideline**

*This section was previously entitled "Psychological Disability."*

A mental health disability is defined as a persistent psychological or psychiatric disorder, emotional or mental illness that adversely affects educational performance. A mental health disability is a condition which:

- 1) Is listed in the most current American Psychiatric Association Diagnostic and Statistical Manual (DSM) and/or the Americans with Disabilities Act, as amended, and/or the International Classification of Diseases. (ICD)
- 2) Reflects a psychiatric or psychological condition that interferes with a major life activity; and
- 3) Poses a functional limitation in the educational setting.

Examples of mental health conditions covered in the section include: Post Traumatic Stress Disorders (PTSD), obsessive compulsive disorders, (OCD) bi-polar disorder, schizophrenia, anxiety disorder, and major depression.

The term mental health disability does not include any condition designated by the most current DSM with a Code in Axis V signifying that it is not attributable to a mental health disorder. Neurodevelopmental Disorders (such as, but not limited to Intellectual Disabilities, Learning Disabilities, ADHD and other Neurodevelopmental Disorders) are covered by another disability category in these regulations.

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There are a number of conditions listed in the current DSM, that are not included in the California Community College definition as warranting educational accommodations such as compulsive gambling, kleptomania and pyromania.

While Paraphilic Disorders are not included in the definition of mental health disability, please note these disorders may cause psychological and physical distress and impairment. Students undergoing gender reassignment surgery or going through the gender reassignment process, may require accommodations and would be covered under Section 56044.

Recovering drug and alcohol abusers are considered as having a mental health disability as long as they are in or have completed a substance abuse recovery program and meet all other conditions for this disability category.

A mental health disability may be verified by a DSPS certificated staff member using documentation from:

- A public or private agency such as the Department of Mental Health, a psychosocial service agency, the Department of Rehabilitation or a public or private school identifying the student as having a mental health disability or
- documentation from a licensed psychologist, physician, licensed marriage and family therapist, or clinical social worker identifying them as having a mental health disability or
- For students with substance abuse disorders, verification of disability and proof of participation in a treatment program may be obtained from a 12-step group leader or other treatment provider.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an

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assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56044. OTHER HEALTH CONDITIONS AND DISABILITIES.**

This category includes all students with disabilities, as defined in Section 56002, with other health conditions, and/or disabilities that affect a major life activity, which are otherwise not defined in Sections 56032-56042, but which limit the student's ability to access the educational process.

*Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-12 and 84850, Education Code.*

### **Implementation guideline**

*This section was previously entitled "Other Disabilities."*

Students with health conditions or other disabilities covered in this category, may have impacts that result in educational limitations which may be nonspecific and vary widely from individual to individual. Some of the more common limitations of students with health conditions include decreased level of energy or stamina and pain. These effects have lasted or are expected to last at least six months and may be episodic in nature and come from various causes.

In addition as described below in more detail, a speech disability not attributable to other disability conditions such as brain injury should be reported under this category of Other Health Conditions and Disabilities.

Examples of a health condition or other disability identified for this section, include but are not limited to, cardiovascular disease, Chronic Obstructive Pulmonary Disease (COPD, asthma, diseases of various organ systems (e.g. respiratory, cardiovascular, immune, gastro-intestinal, endocrine, liver/kidney, etc.), cancer, HIV-AIDS, hepatitis, lupus, Tourette syndrome, seizure disorders, chronic fatigue producing diseases such as Epstein-Barr or Myasthenia Gravis, multiple chemical sensitivity, or severe allergies.

These limitations which are a result of the student's health condition limit the student's ability to have equal access to the educational offerings of the college without academic adjustments, auxiliary aids, service and/or instruction.

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An appropriate level of examination and attention to the specific details of students presenting with such conditions will allow for a correct placement according to the conditions source and resulting functional limitations.

A health condition or other disability can be verified by various methods described below.

- In conjunction with the student self-report, direct observation of the effects of the health condition or speech disability by a certificated DSPTS staff member during the interactive process.
- Existing documentation from a medical facility, another public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.
- Documentation from a physician, physician's assistant, or nurse practitioner.
- In the case of a speech disorder, by a licensed speech professional or documentation from a public or private agency identifying the person as having a speech disorder.

A Speech Disorder is interpreted to mean an impairment in the quality, accuracy, intelligibility or fluency of producing the sounds that comprise spoken language.

A Speech disorder does not apply to language having to do with a foreign accent. It also does not apply to any limitation that is caused by a physical or hearing impairment, psychological disability, or acquired brain injury (ABI). Students with speech impairments caused by these other disability conditions should be reported in the appropriate category

After the existence of a health condition, other disability or speech impairment has been verified, functional limitations in the educational setting may most often be identified through discussion with the student and the use of the interactive process. Only when necessary, additional documentation may be sought from other sources.

Emphasis should be given to the quality of the documentation rather than recency.

### **Documentation**

The student record should contain the verification of the specific disability and the source of the verification from outside documentation from a professional or agency or from an assessment performed by appropriate staff as described in the implementation guidelines for the reported disability of the student. In addition, the record should include the functional limitations in the educational setting which arise from the disability and which are determined by the DSPS professional through the interactive process with the student or from information from other professionals or referring agencies.

## **SECTION 56046. DSPS PROGRAM PLAN.**

- (a) Each district receiving funding pursuant to this subchapter shall develop and submit to the Chancellor, at such times as the Chancellor shall designate, a DSPS program plan for each college within the district. Upon approval by the Chancellor, the plan shall be a contract between the District and the Chancellor. Expenditures of funds appropriated pursuant to this subchapter must conform to the approved plan.
- (b) The unit or program plan developed as part of a college's accreditation or strategic planning processes shall meet the requirements of the plan required by this section if it contains at least all of the following:
  - (1) the long-term goals of the DSPS program;
  - (2) the short-term measurable objectives of the program;
  - (3) the activities to be undertaken to accomplish the goals and objectives; and
  - (4) a description of the methods used for program evaluation.
- (c) Each district shall submit updates to its plan to the Chancellor upon request.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

While a DSPS Plan is required by this section, the intent is to reduce duplication of effort and utilize the Plan developed by DSPS as part of the college's accreditation or strategic planning process as the Plan for Title 5. As part of the accreditation process colleges are required to conduct a self-evaluation to evaluate institutional effectiveness. In addition, many colleges undertake strategic planning as part of their ongoing efforts to effectively manage and plan for the college's current and future needs.

Therefore as part of the college's accreditation process or district wide strategic planning, if DSPS develops its own program or unit plan, it may be utilized as the DSPS Plan for Title 5 compliance as long as it includes the following elements:

- 1) the long-term goals of the DSPS program;
- 2) the short-term measurable objectives of the program;
- 3) the activities to be undertaken to accomplish the goals and objectives;

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- 4) a description of the methods used for program evaluation.

Additional elements which are recommended, but not required to be in the Plan include:

- a) Mission statement
- b) Number of students served
- c) Description of academic adjustments, auxiliary aids, services and/or instruction provided
- d) How the program adheres to Section 56000 regarding duplication of services
- e) Staffing
- f) Minimum qualifications
- g) Educational Assistance Classes
- h) Student Learning Outcomes
- i) Student and faculty satisfaction surveys

Although the accreditation cycle is currently 6 years, the DSPS program or unit plan should be updated as necessary.

### **Documentation**

The DSPS plan should be kept on file and available for review and audit purposes.

**SECTION 56048. STAFFING.**

- (a) Each district receiving funds pursuant to this subchapter shall ensure sufficient DSPS certificated and support staff to provide timely and effective services to eligible students with disabilities.
- (b) Each district receiving funds pursuant to this subchapter shall designate a DSPS coordinator or director for each college in the district. For the purpose of this section, the coordinator or director is defined as that individual for each college in the district who has responsibility for the day-to-day operation of DSPS, which is necessary to implement Subchapter 1 of Chapter 7 of this Division. For the coordinator or director, those responsibilities shall include, but are not limited to, integration of DSPS into the college's instruction and services, the provision of academic adjustments, auxiliary aids, and services, maintaining knowledge of the legal responsibilities regarding students with disabilities participation in the educational process, and budget planning. The designated coordinator or director must meet the minimum qualifications for a DSPS counselor or instructor set forth in Section 53414(a) through (d) or meet the minimum qualifications for an educational administrator set forth in Section 53420 and, in addition, have two (2) years full-time experience or the equivalent within the last four (4) years in one or more of the following fields:
  - (1) instruction or counseling or both in a higher education program for students with disabilities;
  - (2) administration of a program for students with disabilities in an institution of higher education;
  - (3) teaching, counseling or administration in secondary education, working predominantly or exclusively in programs for students with disabilities; or
  - (4) administrative or supervisory experience in industry, government, public agencies, the military, or private social welfare organizations, in which the responsibilities of the position were predominantly or exclusively related to persons with disabilities.
- (c) Persons employed pursuant to this Subchapter as counselors or instructors of students with disabilities shall meet minimum qualifications set forth in Section 53414 of Subchapter 4 of Chapter 4 of this Division.
- (d) Districts receiving funding pursuant to this subchapter may also employ classified and/or paraprofessional support staff. Support staff shall function under the coordination of a DSPS coordinator or director, counselor, LD Specialist, or instructor as appropriate for the academic adjustments, auxiliary aids, services and/or instruction being provided.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

[Section 53414](#) and [Section 53420](#) identifies the minimum qualification the district must utilize for DSPS coordinator or director, counselor, and instructor. The coordinator or director is the individual who has day-to-day responsibility for the DSPS program. The DSPS coordinator or director's salary is the only administrative cost that is an allowable DSPS expenditure.

The term director is added to the title DSPS coordinator to clarify that in some districts the person in charge of the day-to-day operations of DSPS may be a faculty coordinator providing program coordination and oversight or an educational administrator who directs the DSPS program and provides supervision for non-faculty DSPS staff.

In determining a level of staffing needed the district should keep in mind the need to avoid wait times for services including counseling determination of education limitations and appropriate academic adjustments, auxiliary aids services and /or instruction and the timely provision of these services to ensure that students with disabilities are not limited in their ability to equally participate in, and benefit from the college's offerings.

The Chancellor's Office suggests that, when developing staffing plans and allocating resources in order to fulfill the duties outlined below and ensure the college's compliance with the complex federal and state laws affecting DSPS, a fulltime DSPS coordinator be employed in most cases and whenever warranted by the size of the DSPS Program. This is especially the case for Colleges which provide DSPS services to 500 or more students per year. It is strongly recommended that colleges serving fewer than 500 students per year have at least one fulltime person assigned to DSPS, serving as half-time coordinator and half time counselor.

The day-to-day responsibility of a DSPS coordinator or director will depend on the classification of the position at that college/district (i.e. faculty or administrator), but will often include:

- a) Staying current on federal and state laws, regulations, court decisions, and Department of Education, Office of Civil Rights decisions. Continually attending DSPS region meetings, conferences and trainings to stay abreast of new information. This

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information must also be disseminated to DSPS faculty and staff, as well as the college administration in order to safeguard the rights of both the students and the college.

- b) Responsibility for planning, tracking, reporting and negotiating the DSPS budget and expenditures, including state DSPS funding, college unrestricted general fund, or other funding sources.
- c) Interaction with various administrators and faculty regarding the ongoing implementation of accommodations for students with disabilities. This will range from interactions with single faculty about questions or clarification regarding individual student accommodations to the broader college-wide policy and procedure issues of providing accommodations and services to students.
- d) Staffing coordination or supervision, focusing on adequate staffing to meet the needs of the students and the program as well as ongoing professional development and training of the varied positions. This will include recruiting, hiring, training/orientation, of fulltime and part-time faculty and staff, and student workers.
- e) First- or second- level responsibilities for responding to and addressing student complaints. This may also involve dealing with parents, lawyers, caseworkers, and/or advocates.
- f) Outreach to college instructional and student service departments regarding the accommodations and services provided by the DSPS program. This may involve meetings with individuals, department meetings, classroom presentations, meetings with management, or many others.
- g) Outreach to community organizations and resources which may provide additional services to students with disabilities. Attending events such as high school special education transition fairs, Individual Education Plan (IEP) meetings, Department of Rehabilitation meetings, or many others.

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- h) Advocacy both on- and off- campus for students with disabilities. This may involve referral or intercession with mental health providers, welfare agencies, the Department of Rehabilitation, the Social Security Administration, other colleges and universities.
- i) Direct instruction or coordination of instruction for courses or course sections designed for students with disabilities.
- j) Participation in state Chancellor's Office activities such as advisory committees, workgroups, or program review teams.
- k) Participation in college/district participatory governance committees and workgroups as a general requirement of all faculty/management.
- l) Participating in ongoing program development and review, including reviewing and updating both DSPS and college policies and procedures.
- m) Serving as an advisor on matters related to the implementation of technology to ensure that educational technology products and solutions are fully accessible to and useable by students with disabilities.

All staff whether professional or paraprofessional, must be accountable to the DSPS coordinator or director with respect to reporting requirements and compliance with DSPS regulations. This does not mean that all staff serving students with disabilities must be supervised by the DSPS coordinator or director but he/she must have administrative authority necessary to ensure that all services are properly coordinated and that all regulatory requirements are satisfied.

### **Documentation**

Documentation should indicate that the DSPS coordinator or director, meet either the minimum qualifications as an educational administrator as set forth in Section 53420 or as a faculty coordinator, DSPS counselors and DSPS instructors must meet the minimum qualifications as set forth in Section 53414.

## **SECTION 56050. ADVISORY COMMITTEE.**

Each district receiving funds pursuant to this subchapter shall establish, for either the District or at each college in the district, an advisory committee which shall meet not less than once per year. The advisory committee shall, at a minimum, include a student with disabilities.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code*

### **Implementation guideline**

The Advisory Committee is extremely important because it is a mechanism to (1) improve communication; (2) solicit the confidence of the public; (3) obtain valuable input on the programs and services available to students with disabilities; (4) include the students' voice in the process of maintaining a strong DSPS program

An Advisory Committee should give guidance and direction to the DSPS program and college related to the needs of the community.

Each district or college should consider a diverse membership reflecting the community, including students with disabilities.

Advisory Committee meetings may be held in a variety of modes, including Skype, Go to Meeting, CCCConfer as well as face-to-face.

The focus and priorities of the committee will be determined locally, however a non-exhaustive list of the types of important aspects of the advisory committee are to:

- a) Review current DSPS services and provide recommendations for enhancements.
- b) Assist in new DSPS program development.
- c) Maintain liaison with various agencies.
- d) Cooperation in supporting DSPS activities and campus events.
- e) Assist in the recruitment and outreach of students who may benefit from DSPS.
- f) Provide consultation on campus committees representing DSPS.

**Documentation**

Documentation that the advisory committee has been formed and meetings conducted shall be kept on file, in whatever mode is appropriate.

## **SECTION 56052. EVALUATION.**

The Chancellor shall conduct evaluations of DSPS programs to determine their effectiveness. Each college shall be evaluated at least once every five years. The evaluation shall at a minimum, provide for the gathering of outcome data and data pertaining to staff and student perceptions of program effectiveness, access requirements of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), compliance with Section 504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794) and data on the implementation of the program as outlined in Education Code Section 84850.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. References: Sections 67310-67312 and 84850, Education Code; and 29 U.S.C. Sec. 794.*

### **Implementation guideline**

Education Code section 67312 requires that the California Community Colleges “...Develop and implement, in consultation with students and staff, a system for evaluating state-funded programs and services for disabled students on each campus at least every five years.”

The DSPS program evaluation will be developed and carried out by the state Chancellor’s Office. The college will meet the above requirements by participating in the DSPS Program Evaluation process. The college may be asked to provide a variety of information (budgets, DSPS Program/Unit plans, college’s Section 504 and ADA self-evaluation, organizational charts, etc.) to the evaluation team as part of the evaluation.

At such times as the Chancellor’s Office has sufficient staffing and resources to conduct program evaluations, they shall be modelled on the following:

The on-site review visit will generally entail interviewing a selection of DSPS students, all faculty/staff/administrators paid from DSPS funds and/or whose positions are used as college effort or match, the college president or designee, the supervising vice president or designee, the direct supervising administrator (who may be the DSPS coordinator/director), and an appropriate sampling of non-DSPS students/faculty/staff/administrators. A sampling of DSPS files, whether in paper or electronic form, will be reviewed. On-site reviews will usually require multiple days.

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The review teams will generally be comprised of a team leader, one DSPS coordinator/director, one DSPS counselor, one Alternate Media Specialist/High Tech Center Specialist, one LD Specialist, one student if available, and other faculty/staff/administrators as needed. Colleges are expected to periodically make their DSPS faculty/staff/administrators available to serve as review team members, both as area experts and also for professional development purposes.

A draft report will be prepared by the review team of their findings, which generally will include any compliance issues, any program improvement recommendations, and commendations to the program/college. The Chancellor's Office will send a final report to the college president. The college will then be given a period of time to respond back to all compliance issues identified in the report, and the response must include the plan and timeline to correct these compliance issues. Colleges are also encouraged to respond to any recommendations for program improvement included in the report.

A biennial report of the collective issues and trends will be compiled by the Chancellor's Office.

### **Documentation**

The evaluation report should be kept on file in the DSPS office for public review.

**SECTION 56054. SPECIAL PROJECTS.**

- (a) Community college districts receiving funding pursuant to this subchapter shall cooperate to the maximum extent possible with the Chancellor in carrying out special projects, which may include, but are not limited to, task force meetings, research studies, model programs, conferences, training seminars, and other activities designed to foster program development and accountability. Such projects shall be funded from the three percent set aside authorized pursuant to Education Code Section 84850(e).
- (b) Where such projects fund services to students, such students need not meet the eligibility criteria otherwise required under this subchapter, but such students shall meet any eligibility requirements which the Chancellor may prescribe.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

**Implementation guideline**

This section grants the Chancellor's Office authority to enter into agreements with vendors and consultants to provide support of special projects identified by the system and to support the shared governance model by funding DSPS advisory groups.

## **ARTICLE 4 FUNDING AND ACCOUNTABILITY**

### **SECTION 56060. BASIS OF FUNDING.**

Any community college district shall be entitled to receive funding pursuant to Education Code Section 84850 to offset the allowable expenses, as defined in Section 56064, of providing academic adjustments, auxiliary aids, services and/or instruction to students with disabilities enrolled in state-supported educational courses or programs.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

#### **Implementation guideline**

Section 56060 authorizes the state Chancellor's Office to calculate the allocation of funds on a college-by-college basis, yet the funds must be apportioned to the districts. If a multi-college district wants to redistribute the allocated funds among the colleges in their district they must request prior written approval from the state Chancellor's Office. Request from a district must include an appropriate justification for the redistribution.

#### **Documentation**

When a multi-college district requests a redistribution of funds, each college in the district should maintain on file the written justification for redistribution of funds prepared by the district and submitted to the state Chancellor's Office, along with the state Chancellor's Office response.

## **SECTION 56062. PROVISION OF ACADEMIC ADJUSTMENTS, AUXILIARY AIDS, SERVICES AND/OR INSTRUCTION.**

A community college district will be deemed to have “provided academic adjustments, auxiliary aids, services and/or instruction” to a student with a disability, as required by Section 56060, if the student is enrolled in an educational assistance class or is enrolled in a general class and received one or more service contacts each semester the student attends.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

*In this section ‘semester’ effectively means ‘term.’*

Section 56062 outlines the criteria which students must meet in order to be counted as students with disabilities who are receiving services or instruction funded through the DSPS program.

According to these criteria students with disabilities must be enrolled in either an educational assistance class or a general class at the college. If students with disabilities are enrolled in general classes, students must receive one or more service contacts during each term that they enroll in and attend at the college. If the student takes a break during the summer session, or any other term a DSPS contact is not required during that term.

In order to be counted for DSPS funding, when the student is only taking general classes, not Educational Assistance classes the student’s enrollment in a general class within a term must be documented and supported by the district’s submittal of an SX record (enrollment) in the state MIS system for that student. This means the student must, in a census class, make it to the census date to be counted for funding. In a positive attendance class, the student must attend at least one meeting of that class to be counted for funding.

### ***Service contacts***

A service contact is defined as each time a service, as defined in Section 56026, is provided to the student.

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A DSPS service contact is any DSPS service that is provided to a student related to the student's educational limitation as caused by their disability. A DSPS service contact can involve notetaking, registration assistance, counseling, interpreting services, etc. Each time a DSPS service is provided, it counts as a DSPS service contact for MIS reporting purposes. For example, if the DSPS program provides a notetaker three times a week for nine weeks, that would be a total of 27 service contacts. However, a student who comes in for a counseling session and talks about four different services they will receive during the semester has not received four services. They have received one service...counseling, which enabled them to plan for additional services to be received in the future.

A service contact is:

- Meeting with a student to discuss classes, accommodations, etc.
- Meeting with a student for an annual update of their Academic Accommodation Plan;
- An online or telephone conversation of substance or outcome-oriented. For example, an online 'to and fro' via email or other electronic means between a student and the Interpreter coordinator regarding which classes the student is taking and the need for interpreters would be considered a contact. A telephone conversation regarding classes and accommodations between DSPS staff and a student would be considered a contact.
- Training to use assistive technology;
- Students who are currently enrolled in an Educational Assistance Class" designed for DSPS students are fully eligible for funding.
- Or other direct services to implement the academic adjustments, auxiliary aids and services.

A service contact is not:

- A telephone call to remind the student of an appointment or letters/ newsletters sent out to students at home.

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- A student who is auditing a class or taking a community service fee-based class is not eligible for services funded through the DSPS program, although the college is still required to provide services to students with disabilities in these classes and other instances using other resources at its disposal in order to meet the requirements of Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 794) and Assembly Bill 803 (Government Code Section 11135 et. seq.) and the Americans with Disabilities Act (ADA).

### **Documentation**

The college should maintain a file for each student reported to the state for funding through the DSPS program.

Documentation in files should be sufficient to allow a reviewer, auditor, or other authorized person to determine that:

- Appropriate verification of the disability has been obtained,
- the student was eligible to receive services;
- appropriate service planning was done;
- the student was fully informed about the process;
- services were delivered and
- the student's rights were protected.

All DSPS student records shall be maintained to ensure security of confidential information. Any files taken out for review during the day should be placed back in the secure location(s) after the review.

## **SECTION 56064. ALLOWABLE EXPENSES.**

- (a) Allowable expenses are those actual fixed, variable, and one-time costs (not including non-allowable expenses, as defined in Section 56068) for providing academic adjustments, auxiliary aids, services and/or instruction, as defined in Sections 56026 and 56028, which exceed the combined total of the following:
  - (1) the average cost to the district of providing comparable services (as defined in Section 56066) to students without disabilities times the number of students with disabilities receiving such services from DSPS;
  - (2) the revenue derived from educational assistance classes as provided in Section 56070; and
  - (3) any other funds for serving students with disabilities which the district receives from federal, state, or local sources other than discretionary district funds.
- (b) Allowable expenses may include the removal or modification of minor architectural barriers providing the funds expended do not exceed 1% of the current year DSPS allocation, unless an exception to the funding limitation has been granted by the Chancellor's Office.
- (c) Allowable expenses may also include the purchase and repair of equipment.
- (d) The cost of allowable expenses may fluctuate depending on the number of students or the unit load of the students.
- (e) As used in Subchapter 1 of Chapter 7 of this Division, allowable expenses refers to direct excess costs, as is defined in Education Code Section 84850(c).

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Allowable expenses are those expenditures, which the college incurs while serving students with disabilities.

These allowable expenses are those that exceed revenue derived from other sources such as educational assistance classes and other federal, state or local funds received by the college which are directly related to students with disabilities. These are funds that are distributed by the district without discretion, i.e., WorkAbility III or specific grants. Funds not included in this category are those which the district does distribute with discretion, i.e., Perkins IV.

Allowable DSPS expenses include supplemental costs as defined in section 56048 for personnel, including full time, part time and hourly workers and contract services to provide academic adjustments, auxiliary aids, services and instruction as defined in 56026 and 56028, utilizing

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budget codes 1000 for academic salaries, 2000 for classified staff and 3000 for employee benefits. (See Section 56068 regarding salary and benefits of employees on long-term medical, administrative/disciplinary, or family leave).

Expenditures for expenses in budget categories 4000-6000 as defined in the [Budget and Accounting Manual](#) are:

Budget code 4000 – Supplies and materials - is used for purchasing supplies and materials necessary for DSPS operations.

Budget code 5000 – Other Operating Expenses and Services can be used for consultants providing direct instruction or services to eligible DSPS students; and professional development directly related to serving students with disabilities.

Budget code 6000 – Equipment - is used for the purchase of equipment for use by students with disabilities. Equipment that will be used by DSPS staff in the process of providing DSPS services as specified in Section 56026 is allowable, based on prior approval of the Chancellor's Office. Examples of equipment used by DSPS staff in support of the provision of auxiliary aids and services include, but are not limited to: computers the transfer MP3's into DAISY or convert text to alternate formats and other equipment used to support student with sensory or print disabilities.

Allowable expenses may include the costs of **minor architectural** barrier removal or modification providing the funds expended do not exceed 1% of the current years DSPS allocation. To receive an exception to this 1% cap, colleges must submit and attain approval of an exemption from the Chancellor's Office. To receive an exception to this 1% cap, colleges must utilize Chancellor's Office approved criteria and provide a written submission to the Chancellor's Office.

To receive an exception for the cost of minor architectural barrier removal or modification that exceeds 1% of the current years DSPS allocation the college will be required to submit a written request for an exemption to the Chancellor's Office. To receive an exception to this 1% cap,

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colleges must utilize Chancellor's Office approved criterion and provide a written submission to the Chancellor's Office.

### **Criterion for Minor Barrier Removal**

- 1) What is the total Amount of DSPS funding proposed to be spent on Minor Barrier Removal?
- 2) What percentage of the DSPS allocation is being proposed and by how much does this exceed the 1% cap?
- 3) Have all DSPS students been served adequately?
- 4) Has the college received any state capital outlay funding through the Physical Plant and Instructional Support line item from the CO within the last 5 years?
- 5) If it has, how much? When?
- 6) Has the college or District received any local facility related Grants within the last 5 years?
- 7) If it has, how much? When?

### **Documentation**

Colleges should maintain income and expenses by accounting codes. This information should be in such a format that colleges can complete the DSPS End-of-Year report as developed by the Chancellor's Office. The information in the report includes total costs of the DSPS program (not including non-allowable expenses as defined in Section 56068) and other income.

**SECTION 56066. COMPARABLE SERVICES.**

- (a) As used in Section 56064, “comparable services” are those services which are comparable to services available from a college to its students without disabilities. These services described in Section 56026 include, but are not limited to:
  - (1) job placement and development;
  - (2) registration assistance;
  - (3) accessible parking;
  - (4) assessment;
  - (5) counseling;
  - (6) tutoring, and
  - (7) outreach.
- (b) Districts which claim reimbursement for allowable expenses for comparable services as defined in subdivision (a) must, for each college in the district:
  - (1) certify that the service in question is not offered to students without disabilities; or
  - (2) collect and report to the Chancellor, on forms prescribed by the Chancellor, data showing the number of new and the number of continuing students with disabilities enrolled in credit courses who received one or more such services, in whole or in part, from DSPS.
- (c) The Chancellor shall adjust the allocation of each district by the number, if any, of students reported pursuant to subdivision (b)(2), times the applicable credit student services funding rates for new and continuing students calculated pursuant to Article 48 (commencing with Section 58730) of Subchapter 8 of Chapter 9 of this Division.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

**Implementation guideline**

The Chancellor’s Office will provide information on implementation of Section 56066 at a later date.

## **SECTION 56068. NON-ALLOWABLE EXPENSES.**

The following expenses are not allowed to be paid by DSPS funds, including but not limited to:

- (a) college administrative staff salary and benefit costs (e.g., staff of the college business office, bookstore, reproduction center, etc.);
- (b) administrative salaries and benefits for staff at the dean salary level and above, with the exception of the applicable FTE of the DSPS coordinator or director;
- (c) indirect costs, such as rent, heat, light, power, telephone, FAX, internet service, gasoline and janitorial;
- (d) costs of construction, except for removal or modification of minor architectural barriers. These expenses must not exceed 1% of the current year DSPS allocation;
- (e) travel costs other than for DSPS staff and students for directly related DSPS activities or functions;
- (f) costs for on- and off-campus space and plant maintenance;
- (g) the cost of office furniture (e.g., desks, bookcases, filing cabinets, etc.);
- (h) political or professional association dues and/or contributions;
- (i) rent of off-campus space;
- (j) costs for legal matters, election campaigns, or audit expenses;
- (k) building costs, even if the new building were for exclusive use of DSPS;
- (l) books or other resource material purchases for the general or main library; or
- (m) vehicles or modification of vehicles including campus trams, unless used exclusively for students with disabilities.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Section 56068 describes expenditures expenses that cannot be considered allowable expenses. These administrative expenditures non-allowable expenses (with the exception of the DSPS coordinator/director's salary) are the responsibility of the district and should not be considered, in any part, as a DSPS program expenditure for reporting purposes. If senior administration personnel such as a Dean or Vice-President is the DSPS Coordinator having day-to-day

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operational responsibility for DSPS then DSPS funds can be used for the applicable percent of FTE spent on DSPS.

DSPS funds cannot be spent on the salary and benefits of employees on long-term medical, administrative/disciplinary, or family leave. During this period of extended leave, the employee is not providing auxiliary aids, academic adjustments, services or specialized instruction, therefore the cost of their salary and benefits for this time period is not an allowable DSPS expense.

However, DSPS funds can be spent on the salary and benefits of temporary or redirected employees who fill that position and/or otherwise provide that position's DSPS related duties during the time period in which the permanent employee is on the long-term leave. The amount of that second position's time charged to DSPS must be commensurate with the amount of time that position is temporarily redirected to DSPS and providing DSPS allowable services.

For example, if a DSPS permanent staff member is on a long-term medical leave, and the district identifies another existing college position and redirects 50% of his or her position's time to DSPS in order to provide the services that would have been provided by the person now on leave, then only 50% of that second position's salary and benefits can be charged to DSPS."

To receive an exception for the cost of minor architectural barrier removal or modification that exceeds 1% of the current years DSPS allocation the college will be required to submit a written request for an exemption to the Chancellor's Office. To receive an exception to this 1% cap, colleges must utilize Chancellor's Office approved criterion and provide a written submission to the Chancellor's Office.

### **Criterion for Minor Barrier Removal**

- 1) What is the total Amount of DSPS funding proposed to be spent on Minor Barrier Removal?

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- 2) What percentage of the DSPS allocation is being proposed and by how much does this exceed the 1% cap?
- 3) Have all DSPS students been served adequately?
- 4) Has the college received any state capital outlay funding through the Physical Plant and Instructional Support line item from the CO within the last 5 years?
- 5) If it has, how much? When?
- 6) Has the college or District received any local facility related Grants within the last 5 years?
- 7) If it has, how much? When?

### **Documentation**

Non-allowable expenses, with the exception of the DSPS coordinator or director's salary, should not be included in any of the accounting codes maintained for DSPS expenses. These-non-allowable expenses should not appear in the DSPS End-of-Year report.

## **SECTION 56070. REVENUE FROM EDUCATIONAL ASSISTANCE CLASSES.**

Revenue from educational assistance classes shall be used for provision of academic adjustments, auxiliary aids services and/or instruction pursuant to Sections 56026 and 56028 and shall not be used for non-allowable expenses as defined in Section 56068.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Educational assistance class FTES is generated the same way as general class FTES. For purposes of reporting, a class is an educational assistance class if it meets the criteria outlined in Section 56028 and serves students with disabilities as defined in Sections 56032-56044. The combined educational assistance class and regular class FTES is the measure by which the state provides general apportionment funds to the college as a whole.

The college is responsible for ensuring that the amount of funds the DSPS program receives accurately reflects the amount of FTES generated within the program.

### **Documentation**

The district's overall FTES report should be filed with the state Chancellor's Office Fiscal Services Unit and must be maintained at the district business office. Educational assistance classes must also be identified as an educational assistance class and all sections of these classes have to be identified as a special section in the district's MIS system.

## **SECTION 56072. ALLOCATIONS; REPORTS; AUDITS; ADJUSTMENTS.**

The Chancellor shall adopt an allocation formula which is consistent with the requirements of this Subchapter. The Chancellor shall use this formula to make advance allocations of funding provided pursuant to Section 56060 to each community college district consistent with the district's approved DSPS program/unit plan pursuant to Section 56046 and the requirements of this Article.

A portion, not to exceed 20 percent, of the allocation may be based on the amount of federal, state, local, or district discretionary funds which the district has devoted to serving students with disabilities. Provided, however, that in no event shall any district be entitled to receive funding which exceeds its allowable expenses, as defined in Section 56064, of providing academic adjustments, auxiliary aides and services or instruction to students with disabilities.

Each district shall submit such enrollment and budget reports as the Chancellor may require.

The Chancellor shall provide for audits of DSPS programs to determine the accuracy of the reports required pursuant to subdivision (c).

The Chancellor may, based on audit findings or enrollment/budget reports, adjust the allocation of any district to compensate for over or under-allocated amounts in the current fiscal year or any of the three immediately preceding fiscal years.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code*

### **Implementation guideline**

Section 56072 provides:

- 1) the state Chancellor's Office the ability to adopt an allocation formula and to insure advance allocations.
- 2) defines "overspending" the DSPS allocation as "college effort." The amount of district contribution calculated by the Chancellor's Office as College effort is used to determine up to 20 percent of the DSPS allocation. This subsection also defines "unspent" DSPS allocation as funds the state Chancellor's Office can recapture through the apportionment process.
- 3) gives the state Chancellor's Office permission to request reports and data from the colleges.
- 4) gives the state Chancellor's Office the ability to conduct fiscal audits of the DSPS program at the colleges.

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- 5) gives the state Chancellor's Office the ability to adjust allocated amounts during the fiscal year and up to three preceding fiscal years, based on audit findings.

### **Documentation**

The district should maintain a clear audit trail, enrollment and budget reports.

## **SECTION 56074. ACCOUNTING FOR FUNDS.**

Each community college district shall establish a unique budget identifier code to separately account for all funds provided pursuant to this subchapter. The district shall certify through fiscal and accounting reports prescribed by the Chancellor that all funds were expended in accordance with the requirements of this subchapter.

*NOTE: Authority cited: Sections 67312, 70901, and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code*

### **Implementation guideline**

Section 56074 indicates that each district shall maintain separate accounting codes for DSPS expenditures and income. These accounting codes are used in completing the DSPS End-of-Year Report. All expenditures using the separate DSPS accounting codes must represent the total cost of the DSPS program excluding the indirect administrative costs, defined in Section 56068.

**NOTE:** With the advent of the Student Services Automated Reporting for Community Colleges (SSARC) for DSPS reporting, DSPS staff will be required to report all DSPS program expenses in their end-of-year report by object code, subsidiary object code, funding source and position type, consistent with the system's Budget and Accounting Manual.

### **Documentation**

The district must keep on file the accounting codes used for the DSPS program.

## **SECTION 56076. OTHER RESOURCES.**

As a condition of receiving funds pursuant to this subchapter, each community college district shall certify that reasonable efforts have been made to utilize all funds from federal, state, or local sources which are available for serving students with disabilities and shall report those expenditures to the Chancellor, as required by Section 56072.

*NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67312 and 84850, Education Code.*

### **Implementation guideline**

Section 56076 indicates that the college make reasonable efforts to utilize all funds available for serving students with disabilities. The college will record, on the DSPS End-of-Year Report, all sources of other income to the DSPS program.

### **Documentation**

The college should keep on file the sources and amounts of other income the program receives.

1/13/2016