

# IMPLEMENTING GUIDELINES FOR TITLE 5 REGULATIONS

*DISABLED STUDENT PROGRAMS AND SERVICES*



CHANCELLOR'S OFFICE  
CALIFORNIA COMMUNITY COLLEGES  
STUDENT SERVICES DIVISION/  
DISABLED STUDENT PROGRAMS AND SERVICES UNIT

## DISABLED STUDENT PROGRAMS AND SERVICES

# IMPLEMENTING GUIDELINES FOR TITLE 5 REGULATIONS

The *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. 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. This document includes the Title 5 Regulations for DSPS (Title 5, *California Code of Regulations*, Sections 56000-56076), which were rearranged, updated or repealed in November 1992.

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.

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).

Additional copies of the *Guidelines* may be obtained by writing to the DSPS Unit, California Community Colleges, Chancellor's Office, 1107 9th Street, Second Floor, Sacramento, California 95814-3607.

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ARTICLE 1.

**GENERAL PROVISIONS AND DEFINITIONS**

## 56000. Scope of Chapter.

This subchapter applies to community college districts offering support services, or instruction through Disabled Student Programs and Services (DSPS), on and/or off campus, to students with disabilities pursuant to Education Code Sections 67310-12 and 84850.

Programs receiving funds allocated pursuant to Education Code Section 84850 shall meet the requirements of this subchapter. Any support services 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 student's participation in the educational process;
- (d) Promote the maximum independence and integration of students with disabilities; and
- (e) Support participation of students with disabilities in educational activities consistent with the mission of the community colleges as set forth in Education Code Section 66701.

**Note:** Authority cited: Sections 67312, 70901 and 84850 Education Code. Reference: Sections 6601-4, 67310-12 and 84850, Education Code.

## Implementation

The introductory paragraph of Section 56000 indicates that these regulations apply to all activities authorized under *Education Code* Sections 67310-12 and 84850. This means any activity for which a district receives direct excess cost (see Section 56064) funding from the State to serve students with disabilities through the Disabled Student Programs and Services (DSPS). This includes special classes and support services for students with disabilities in either regular or special classes, regardless of whether the class is offered on- or off-campus for credit, noncredit, or non-degree credit. Community service courses are not eligible for direct excess cost funding, and services provided to students with disabilities in such courses are not governed by these regulations.

Section 56000 also implements a requirement of Assembly Bill 746 (Chapter 829 Statute 1987) that expenditures under the DSPS program must conform to the five specified criteria outlined in "a thru e." These criteria apply to funds for services to students with disabilities in public postsecondary education in California. The DSPS Program Plan required under Section 56046 must demonstrate that all activities conducted with State categorical funds meet these criteria.

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 special programs, classes, or services should only be established when regular services or instruction, combined with the provision of support services, *does 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. For example, tutoring services provided through the DSPS program should provide disability-related tutoring rather than general tutoring available through the Learning Center, EOPS, or other sources. In regard to special instruction, classes must meet a unique instructional need directly related to the educational limitation due to the disability which cannot be accommodated in a regular class with support services.

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 needs a student may have which do not result from his or her disability. 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.

Subsection 56000 (c) states that services or instruction must be directly related to participation in the educational process. Therefore, DSPS funds cannot be used to meet personal or social needs which exist regardless of whether or not the student is attending college. The provision of personal attendant care on a regular or emergency basis and/or durable medical equipment are among the services which would be excluded under this provision.

Subsection 56000 (d) mandates promotion of maximum independence and integration of students with disabilities. This means that, wherever feasible, students with disabilities should be served in integrated programs with the general student population.

Subsection 56000 (e) 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 DSPTS program. The determining factors for instruction and services should be the purpose and duration of the program. As an educational institution, the colleges are 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, for example, should serve as an adapted instructional mode for the learning of physical education skills—swimming, basketball, general exercise—rather than as a method to engage in therapeutic activities.

## Documentation

The fact that the requirements of Section 56000 have been satisfied with respect to any particular student should be reflected as part of the *Student Educational Contract* process (see Section 56022). The fact that these requirements are satisfied by the DSPTS program as a whole is to be documented through the special class approval process (see Section 56028) and through the college's program plan (see Section 56046).

## 56002. Student with a Disability.

A “student with a disability” or “disabled student” is a person enrolled at a community college who has a verified impairment which limits one or more major life activities, as defined in 28 C.F.R. 35.104, and which imposes an educational limitation as defined in Section 56004. 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 67310-12 and 84850, Education Code.

### Implementation

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

- (1) be enrolled at a community college;
- (2) have a verifiable disability (see Sections 56032-44);
- (3) be unable to fully benefit from the regular programs and services offered by the college due to the educational functional limitation of a disability; and
- (4) 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 signed application for services and verification of enrollment at the community college;
- (2) verification of disability and identification of educational limitation(s) due to the disability;
- (3) a *Student Educational Contract*; and
- (4) documentation of services provided.

## 56004. Educational Limitation.

As used in this subchapter, “educational limitation” means disability related functional limitation in the educational setting. This occurs when the limitation prevents the student from fully benefiting from classes, activities, or services offered by the college to nondisabled students, without specific additional support services or instruction as defined in Section 56005.

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

### Implementation

An “educational limitation” is a disability related functional limitation in the educational setting. An educational limitation prevents the student from fully benefiting from classes, activities, or services offered to nondisabled students, without specific additional support services or instruction as defined in Section 56005. Services and accommodations provided by the DSPS program must be directly related to the student’s educational limitation(s).

### Documentation

Documentation that services and accommodations are directly related to the student’s educational limitation should be available in the student’s file.

## 56005. Support Services or Instruction.

As used in this subchapter, “support services or instruction” means any one or more of the services listed in Section 56026, special class instruction authorized under Section 56028, or both.

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

### Implementation

Support services or instruction as used in Section 56005 means any service or classroom instruction that is above and beyond the regular services or instruction offered by the college. These classes, activities, or services are offered to enable the student with an educational limitation (see Section 56004) due to a disability to fully benefit in the offerings of the college.

### Documentation

Documentation that the support services or instruction are related to the student’s educational limitation (see Section 56004) should be part of the *Student Educational Contract* (see Section 56022).

## 56006. Determination of Eligibility.

- (a) In order to be eligible for support services or instruction authorized under this subchapter, a student with a disability must have an impairment 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 an impairment may be verified, using procedures prescribed by the Chancellor, by one of the following means:
  - (1) observation by DSPS professional staff with review by the DSPS coordinator;
  - (2) assessment by appropriate DSPS professional staff; or
  - (3) review of documentation provided by appropriate agencies or certified or licensed professionals outside of DSPS.
- (c) The student's educational limitations must be identified by appropriate DSPS professional staff and described in the Student Educational Contract (SEC) 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 56004.

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

### Implementation

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.

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

- (1) DSPS professional staff, with review by the DSPS coordinator, may, through personal observation, verify the existence of an observable disability. Use of this procedure is limited to conditions that can be seen externally, e.g., quadriplegia, paraplegia, amputation, cerebral palsy. This observation must be documented in the student's file and state the observed disability and educational limitation(s) of the student.

or

- (2) a staff member who is licensed or certified in a professional field to diagnose specified conditions may verify the existence of a disability. The diagnosis must be documented in the student's file with a statement of the student's educational limitation(s).

or

- (3) DSPS professional staff, with review by the DSPS coordinator, may verify a student's disability based on documentation provided by an appropriate agency or certified professional capable of diagnosing the disability in question or documentation from agencies participating in interagency agreements with the state Chancellor's Office. If the person signing the verification is not qualified to diagnose the condition in question, (e.g., a nurse), the verification should state that it was based on a review of records prepared by an appropriate professional who did perform the diagnosis. The name and address of the professional and/or agency 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).

The ultimate responsibility of verification lies with the DSPS coordinator. The verification should identify and describe the student's disability and the educational limitations which inhibit the educational process.

Requirements for verification of disability apply to all students receiving DSPS services or instruction, which include students served at off-campus community-based facilities, such as hospital sites or shelter workshops. If the verification is based on documents provided by a community-based facility, 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, 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.

## Documentation

A verification of disability form should be placed in each student's file. This form should have the necessary information cited above, and it should be signed by the appropriate professional or representative from an agency participating in interagency agreements with the state Chancellor's Office. The verification should include the functional limitations resulting from the disability so that its impact on the student in the educational setting can be appropriately determined. Documentation of the educational limitation should be written in the *Student Educational Contract* (see Section 56022) relating the educational limitation to the services (see Section 56000(b) and Section 56004).

## 56008. Student Rights.

- (a) Participation by students with disabilities in Disabled Student Programs and Services shall be entirely voluntary.
- (b) Receiving support services 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 2 (commencing with Section 54600) of Chapter 5 of this Division.

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

### Implementation

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.

If a student requests accommodations that impact the delivery of instruction and/or the instructor, then the instructor has a right to know the student's educational (functional) limitation(s) and the appropriate accommodation, with the student's permission. The nature and origin of the disability are not to be disclosed to the instructor without the written permission of the student.

### Documentation

A release of information form should be in the student's file and signed by the student if any information is released regarding the student's disability.

## 56010. Student Responsibilities.

- (a) Students receiving support services 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) make measurable progress toward the goals established in the student's Student Educational Contract or, when the student is enrolled in a regular college course, meet academic standards established by the college pursuant to Subchapter 8 (commencing with Section 55750) 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) or (a)(3) 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 67310-12 and 84850, Education Code.

### Implementation

A student with a disability, like any other student on the campus, must adhere to the student code of conduct adopted by the college. Termination of services to the student under the code of conduct, must go through the same procedures as with any other student.

A college may also adopt a written policy providing for the suspension or termination of DSPS services where a student fails to comply with any of the following requirements:

- (1) be responsible in his/her use of DSPS services and adhere to written service provision policies adopted by the college; or
- (2) make measurable progress toward the goals established in the *Student Educational Contract* or, when the student is enrolled in a regular college course, meet academic standards established by the college.

The service suspension or termination policies shall be given to each student upon applying for DSPS services and must contain a process were a student is:

- (1) provided with a written notice informing he/she of the reasons for the impending suspension or termination of services;
- (2) permitted the opportunity to appeal the decision to suspend or terminate his/her 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 or termination of services.

These policies and requirements should not differ from those pertaining to all students.

## **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**

## 56022. Student Educational Contract.

A Student Educational Contract (SEC) is a plan to address specific needs of the student. A SEC must be established upon initiation of DSPS services and shall be reviewed and updated annually for every student with a disability participating in DSPS. The SEC specifies those regular and/or special classes and support services identified and agreed upon by both the student and DSPS professional staff as necessary to meet the student's specific educational needs. The SEC shall be reviewed annually by a DSPS professional staff person to determine whether the student has made progress toward his/her stated goal(s).

Whenever possible the SEC shall serve as the Student Educational Plan (SEP) and shall meet the requirements set forth in Section 55525 of this division. In addition, for students in noncredit special classes, each SEC shall include, but need not be limited to a description of the criteria used to evaluate the student's progress.

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

### Implementation

The *Student Educational Contract* (SEC) is designed to serve as an educational contract between the DSPS program and the student. It should contain the following information:

- (1) an outline of the specific instructional and educational goal(s) of the student with a description of the objectives and activities needed to achieve these goal(s);
- (2) a measurement of the student's progress in completing the objectives and activities leading to their goal(s); and
- (3) a list of the services to be provided to the student to accommodate their disability-related educational limitations.

The SEC should be initially developed when the student first applies for DSPS services. A DSPS professional staff person and the student should develop the SEC. It is important for the student to participate in the development of the SEC, and the student's signature is necessary to indicate agreement with the short-term objectives as well as the criteria for measuring their progress.

After the initial preparation of the SEC, it should be reviewed and updated each year thereafter to determine the student's progress toward their stated instructional and educational goal(s). This process should include an up-to-date

copy of the student's class schedule, delineation of services provided, an indication that a DSPS professional staff has reviewed the SEC and determined that measurable progress has been made, and the signature of the student showing agreement with the updated SEC. The review and update can be completed incrementally. Where no major changes in the program or services are made, DSPS classified staff can assist in obtaining the student's signature and preparing the file for review by DSPS professional staff. This review can be completed by the DSPS specialist without the student being present.

Additional educational contracts providing specific objectives, skills and learning strategies, and other goals related to the educational setting may accompany the SEC for the year. These contracts should be signed by the student and the DSPS professional staff person responsible for provision of the instruction or service.

Any format that provides the information specified in this section is acceptable. Whenever possible, the SEC shall satisfy the requirements for a Student Educational Plan under Section 55525 of the Matriculation Regulations.

### **Documentation**

An up-to-date SEC for the current year, signed by the student and the DSPS professional staff person, should be available in the file of each student receiving services paid through the DSPS office. Also, students in noncredit special classes should have included in their SEC a detailed description of the criteria used to evaluate the student's measurable progress.

## 56026. Support Services.

Support services are those specialized services available to students with disabilities defined in Sections 56002 of this chapter, which are in addition to the regular services provided to all students. Such services enable students to participate in regular activities, programs and classes offered by the college. They may include, but need not be limited to:

- (a) Basic fixed cost administrative services, associated with the ongoing administration and operation of the DSPS program. These services include:
  - (1) Access to and arrangements for adaptive educational equipment, materials and supplies required by students with disabilities;
  - (2) Job placement and development services related to transition to employment;
  - (3) Liaison with campus and/or community agencies, including referral to campus or community agencies and follow-up services;
  - (4) Registration assistance relating to on- or off-campus college registration, including priority enrollment assistance, application for financial aid and related college services;
  - (5) Special parking, including on-campus parking registration or while an application for the State handicapped placard or license plate is pending, provision of a temporary parking permit;
  - (6) Supplemental specialized orientation to acquaint students with environmental aspects of the college and community;
- (b) Continuing variable cost services which fluctuate with changes in the number of students or the unit load of the students. These services include, but are not limited to:
  - (1) Test-taking facilitation, including arrangement, proctoring and modification of tests and test administration for students with disabilities;
  - (2) Assessment, including both individual and group assessment not otherwise provided by the college to determine functional educational and vocational levels, or to verify specific disabilities;
  - (3) Counseling, including specialized academic, vocational, personal, and peer counseling services specifically for students with disabilities, not duplicated by ongoing general counseling services available to all students;
  - (4) Interpreter services, including manual and oral interpreting for hearing-impaired students;
  - (5) Mobility assistance (on-campus), including manual or motorized transportation to and from college courses and related educational activities;
  - (6) Notetaker services, to provide assistance to students with disabilities in the classroom;
  - (7) Reader services, including the coordination and provision of services for students with disabilities in the instructional setting;
  - (8) Speech services provided by a licensed speech/ language pathologist for students with verified speech disabilities;
  - (9) Transcription services, including but not limited to, the provision of braille and print materials;

- (10) Transportation assistance (off-campus), only if not otherwise provided by the college to all students, where public accessible transportation is unavailable or is deemed inadequate by the Chancellor's Office;
  - (11) Specialized tutoring services not otherwise provided by the college;
  - (12) Outreach activities designed to recruit potential students with disabilities to the college;
  - (13) Accommodations for participation in co-curricular activities directly related to the student's enrollment in state-funded educational courses or programs; and
  - (14) Repair of adaptive equipment donated to the DSPTS program or purchased with funds provided under this subchapter.
- (c) One-time variable costs for purchase of DSPTS equipment, such as adapted educational equipment, materials, supplies, and transportation vehicles.

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

## Implementation

A college will elect to offer services based on 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 DSPTS office or by other departments on the campus. If the college chooses to provide certain services outside of the DSPTS office (i.e., parking permits, registration, etc.) these services cannot be used as DSPTS contacts with the students and DSPTS funds cannot be used to support them. The college should file an addendum to the campus DSPTS Program Plan listing any additions or elimination of services. Certain services requiring further discussion are listed below:

- (a)(5) **Special Parking**—The provision of special parking is coordinated with the college campus security and facilities offices responsible for parking policies and procedures. While the *Vehicle Code* does allow Districts to set local parking policies and fees, these policies are superseded by state law if there is a conflict. Parking on campus should include: free visitor parking; adequate disabled student and staff parking with spaces configured according to Title 24 of the *Building Code*; no charge for persons (staff, students, or visitors) with the state issued Disabled Person plate or placard at spaces with parking meters. Colleges are allowed to charge students with disabilities parking fees equal to those charged non-disabled students.
- (b)(2) **Assessment**—Assessment is the process by which educational functional limitations, academic readiness and vocational level are determined for a student with a particular disability. This assessment process can take the form of reviewing documentation from referring

agencies, by giving different assessment batteries to the student, interviewing the student, etc. The assessment process can be either given individually or in group settings. Title 5 regulations prohibit provision of services or instruction that duplicate those otherwise available to all students. Therefore, assessment conducted by the DSPTS program must not replace or supplant existing general college assessment services.

This subsection also gives the DSPTS program the ability to verify specific disabilities if an appropriate licensed professional is a member of the DSPTS staff.

- (b)(5) **Mobility Assistance**—Personal attendant care is not a service to be provided by the college according to Section 504 and AB 803. However, physical assistance directly related to participation in an instructional activity (e.g., changing clothes for adaptive physical education class) is allowable and can be funded through the DSPTS program.
- (b)(6) **Notetaker Services**—This includes services for writing, notetaking, and manual manipulation for classroom and related academic activities.
- (b)(7) **Reader Services**—This includes the coordination and provision of access to information required for participation in academic courses, if this access is unavailable in other suitable modes. 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 (see *Chancellor's Office Resource Handbook*). Reader services for students who are not clients of DR should be provided by the college, unless the college funding has been exhausted. The determination of the most suitable mode of support (tape vs. reader) should be made by DSPTS credentialed staff with input from the student.
- (b)(8) **Speech Services**—This service should supplement instructional activities of the student and may be provided in conjunction with participation in educational offerings of the college. Speech therapy is not a service to be funded by DSPTS.
- (b)(10) **Transportation Assistance (off-campus)**—Off-campus accessible transportation must be provided if the college provides transportation for non-disabled students. This is a college responsibility, not a DSPTS responsibility. In this case, accessible transportation should be

provided to students with disabilities, but only the additional cost of the service required due to the students' disabilities (aides, lifts, etc.) should be funded through the DSPS program. This requirement includes transportation for field trips and other activities where transportation is provided for all students. In some cases, the college may provide off-campus transportation to students with disabilities only. In such cases the full cost of providing this service to students with disabilities may be covered by DSPS funds if the college determines, and the state Chancellor's Office agrees, that accessible public transportation is unavailable or inadequate. However, this does not relieve the college of its obligation under AB 803 (*Government Code* Section 11135 et. seq.) to provide program and physical accessibility for students with disabilities and staff by ensuring that facilities can be reached by accessible public transit where public transit does exist.

- (b)(11) **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 not replace or supplant existing general college tutoring services.

Colleges should only establish separate special programs, classes, or services when regular services or instruction, combined with the provision of support services, cannot meet the educational needs of students with disabilities.

- (b)(13) **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.

## Documentation

To demonstrate compliance with Title 5, Section 56026, the college should maintain records of the services provided to students with disabilities, including numbers of hours, pay rate, names of providers, and the identification of the disability and educational limitations requiring the service. In regard to the provision of special off-campus transportation in cases where the college does not provide transportation to nondisabled students, 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 transportation can be funded through the DSPS program.

## 56027. Academic Accommodations.

Each community college district receiving funding pursuant to this subchapter shall, consistent with Section 53203 of this division, establish a policy and procedure for responding, in a timely manner, to accommodation requests involving academic adjustments. This procedure shall provide for an individualized review of each request. The procedure shall also permit the Section 504 Coordinator, 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 67310-12 and 84850, Education Code.

### Implementation

Each community college district receiving DSPS funding should establish a policy and procedure for responding, in a timely manner, to accommodation requests involving academic adjustments in dispute. This procedure should provide for an individualized review of the disputed request. The procedure should also permit the Section 504 coordinator, or other designated official that have knowledge of academic accommodation requirements, to make an interim decision pending final resolution.

A district/college decides whether a college needs to obtain local Board approval for a policy dealing with academic accommodations.

### Documentation

A written policy must be accessible to students, faculty and staff of the college.

## 56028. Special Class Instruction.

Special classes are instructional activities offered consistent with the provisions of Section 56000 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 regular college classes even with appropriate support services or accommodations. 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 a special class, a majority of those enrolled in the class must be students with disabilities.

Special 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 55805.5 of this part. In addition, special 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 special 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 67310-12 and 84850, Education Code.

### Implementation

Section 56028 defines special classes. In particular, a special class is an activity which:

- (1) produces revenue in the same manner as other general college instructional activities;
- (2) has been approved through the normal curriculum review process;
- (3) is designed to overcome a student's educational limitations or assist the student in acquiring skills necessary for completion of the goals set forth in the SEC;

- (4) is taught by specially trained instructors who hold the appropriate DSPS minimum qualifications; and
- (5) utilizes materials or instructional methods adapted to the disability-related needs of the students.

It is critical that special classes meet all of the provisions of Section 56000 which require that these classes not duplicate other instructional offerings and that the classes cannot be provided in an effective manner in an integrated setting with support services. A special class is differentiated from a regular class on the basis of whether it meets the criteria of Section 56028 and whether it serves students with disabilities as defined in Sections 56032-56044.

Special 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. On the local level, districts are required to assure that college curriculum committees obtain input from persons who have expertise related to DSPS in their review of special class offerings. It is often useful if DSPS staff serve on curriculum committees to provide such expertise and to facilitate integration of the DSPS program with the overall college program. DSPS staff designing curriculum should follow the policies and procedures outlined in the 1995 Curriculum Standards issued by the state Chancellor's Office.

The cost of special classes can be considered an appropriate DSPS expenditure if the special 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 Plan should list all of the special classes to be offered by the college.

In addition, colleges providing special classes should note Section 56070 of the regulations outlining the requirements for the return of special class FTES revenues to the DSPS program.

## **Documentation**

The college should have verification of course approval by the college curriculum committee for each special class offered. This documentation should be available in the Instructional Dean's or other designated staff persons' office. The DSPS coordinator 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 special classes. Information documenting that special classes meet the criteria specified above will be required as part of the DSPS Program Plan.

## 56029. Special Class Course Repeatability.

Repetition of special classes is subject to the provisions of Sections 55761-63 and 58161 of this division. However, districts are authorized to permit additional repetitions of special 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 special classes is dependent on additional repetitions of a specific class;
- (b) When additional repetitions of a specific special class are essential to completing a student's preparation for enrollment into other regular or special classes; or
- (c) When the student has a student educational contract which involves a goal other than completion of the special class in question and repetition of the course will further the achievement of that goal.

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

### Implementation

Section 56029 defines the circumstances under which special classes can be repeated above and beyond ordinary course repetition standards for credit courses as set forth in Sections 55761-63 and 58161 of Title 5. However, districts are authorized to permit additional repetitions of special 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 SEC, 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 special classes to avoid the limit on repeatability.

It should be noted that although Section 56029 does not address additional repetitions of regular 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 which 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 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 a special class course repeatability accommodation on a case-by-case basis. The DSPS program will need to monitor the information to assure that the above requirements are met.

**ARTICLE 3.**

**REPORTS, PLANS, AND  
PROGRAM REQUIREMENTS**

## 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 67310-12 and 84850, Education Code.

### Implementation

Section 56030 requires the submission of periodic reports to the state Chancellor's Office. Colleges will be required to submit revised reports to correct errors on these reports as necessary.

### 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.

State Chancellor's Office staff will inservice 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.

## 56032. Physical Disability.

Physical disability means a visual, mobility or orthopedic impairment.

- (a) Visual impairment means total or partial loss of sight.
- (b) Mobility and orthopedic impairments mean a serious limitation in locomotion or motor function.

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

### Implementation

Section 56032 defines “physical disability.”

- (1) Visual impairment includes but is not limited to the following conditions:
  - (a) Blindness is visual acuity of 20/200 or less in the better eye after correction; or visual loss so severe that it no longer serves as a major channel for information processing.
  - (b) Partial sightedness is visual acuity of 20/70 or less in the better eye after correction, with vision which is still capable of serving as a major channel for information processing.

Visual impairment does not apply where the loss or impairment is the result of psychological condition or an acquired brain impairment (ABI). This disability can be verified by a physician, a licensed vision professional or through documentation from a referring agency relying upon verification from a physician or other licensed vision professional.

- (2) Mobility impairment includes but is not limited to the following conditions:
  - (a) impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.);
  - (b) impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.); and
  - (c) impairments from other causes (e.g., cerebral palsy, amputation, and fractures and burns which can cause contractures).

Mobility impairment does not apply to mobility limitation due to seeing, hearing, or psychological limitations or mobility limitation resulting from an acquired brain impairment (ABI).

Mobility impairments can be verified, if possible, by the personal observation of a DSPS professional staff member with the DSPS coordinator review, by documentation from a physician, or by the documentation of the referring agency if the verification is done by a physician.

## **Documentation**

Files should contain verification of disability which identifies the particular disability, the educational limitation(s) resulting from the disability, and how the student's educational performance is impeded. The verification must be signed by the appropriate professional.

## 56034. Communication Disability.

Communication disability is defined as an impairment in the processes of speech, language or hearing.

- (a) Hearing impairment means a total or partial loss of hearing function which impedes the communication process essential to language, educational, social and/or cultural interactions.
- (b) Speech and language impairments mean one or more speech/language disorders of voice, articulation, rhythm and/or the receptive and expressive processes of language.

**Note:** Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-2 and 84850, Education Code.

### Implementation

Section 56034 defines “communication disability.”

Hearing impairment means total deafness or a hearing loss so severe that a student is impaired in processing information through hearing, with or without amplification. 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, telephone devices for the deaf, etc.; or
- (2) hearing limitation is defined as a functional loss in hearing which is still capable of serving as a major channel for information processing and is measured as follows:

Hearing limitation is interpreted to mean a functional loss in hearing which is measured as follows:

- (a) a mild to moderate hearing-impaired person is one whose average unaided hearing loss in the better ear is 35 to 54 db in the conversational range or average aided hearing loss in the better ear is 20 to 54 db.
- (b) a severely hearing-impaired person is one whose average hearing loss in the better ear (unaided or aided) is 55 db or greater in the conversational range, or a person with one of the following:
  - (i) speech discrimination of less than 50 percent.

- (ii) medical documentation of rapidly progressing hearing loss.

This disability can be verified by an appropriate hearing professional or through documentation from a referring agency that obtains its verification from a medical doctor or other licensed ear professional. This disability can be verified by a DSPTS staff member only if that person has the appropriate license.

Speech impairment is defined as one or more speech and language disorders of voice, articulation, rhythm and/or the receptive and expressive processes of language that limits the quality, accuracy, intelligibility or fluency of producing the sounds that comprise spoken language.

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

Speech impairment 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 impairment (ABI).

This disability can be verified by a licensed speech professional or through documentation from a referring agency that obtains its verification from a licensed speech professional. This disability can be verified by a DSPTS staff member only if that person has the appropriate license.

## **Documentation**

Files should contain verification of disability which identifies the particular disability, the educational limitation(s) resulting from the disability, and how the student's educational performance is impeded. The verification must be signed by the appropriate professional.

## 56036. Learning Disability.

Learning disability is defined as a persistent condition of presumed neurological dysfunction which may exist with other disabling conditions. This dysfunction continues despite instruction in standard classroom situations. To be categorized as learning disabled a student must exhibit:

- (a) Average to above-average intellectual ability;
- (b) Severe processing deficit(s);
- (c) Severe aptitude-achievement discrepancy(ies); and
- (d) Measured achievement in an instructional or employment setting.

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

### Implementation

Section 56036 defines “learning disability.”

Learning disability is defined as a persistent condition of a presumed neurological impairment. This dysfunction continues despite instruction in standard classroom situations, to be categorized as learning disabilities a student must exhibit:

- (1) average to above-average intellectual ability;
- (2) severe processing deficit(s);
- (3) severe aptitude-achievement discrepancy(ies); and
- (4) measured achievement in an instructional or employment setting.

Learning disability does not apply to learning problems resulting from any physical, visual, or hearing impairments, psychological disability, or any health related disabilities. Learning disability can exist with other disabilities except ABI and DDL.

This disability can be verified in one of the following ways:

- (1) a learning disability professional using the California Community College Learning Disability Eligibility Model.
- (2) a DSPS learning disability specialist may professionally certify if assessment documentation from a referring agency is deemed to meet the requirements in the California Community College Learning Disability Eligibility Model.

- (3) from documentation sent by a referring agency that has entered into an interagency agreement with the state Chancellor's Office. The documentation needs to include the identification of the particular type of learning disability the student has and what the functional limitation the disability imposes on the student.

## **Documentation**

Files should contain verification of disability which identifies the particular learning disability, the educational limitation(s) resulting from that disability, and how the student's educational performance is impeded. The verification must be signed by an appropriate licensed professional.

## 56038. Acquired Brain Impairment.

Acquired brain impairment means a verified deficit in brain functioning which results in a total or partial loss of cognitive, communicative, motor, psycho-social, and/or sensory-perceptual abilities.

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

### Implementation

Section 56038 defines “acquired brain impairment (ABI).”

ABI is defined as an acquired brain impairment caused by external or internal trauma, resulting in total or partial functional limitations that adversely affects or limits a student’s educational performance by impairing:

- (1) cognition, information processing, reasoning, abstract thinking, judgment and/or problem solving;
- (2) language and/or speech;
- (3) memory and/or attention;
- (4) sensory, perceptual and/or motor abilities;
- (5) psycho social behavior; or
- (6) physical functions.

ABI does not apply to functional limitations resulting from brain trauma induced by birth, present at birth or which is progressive and/or degenerative in nature. ABI can be verified by an appropriate licensed professional, or by the documentation of a referring agency if its verification is done by an appropriate licensed professional.

It is the responsibility of the colleges to define acquired brain impairment in a manner which meets regulatory requirements.

### Documentation

Files should contain verification of disability which identifies the particular disability, the educational limitation(s) resulting from the disability, and how the student’s educational performance is impeded. The verification must be signed by the appropriate professional.

## 56040. Developmentally Delayed Learner.

The developmentally delayed learner is a student who exhibits the following:

- (a) Below average intellectual functioning;
- (b) Potential for measurable achievement in instructional and employment settings.

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

### Implementation

Section 56040 defines “developmentally delayed learner (DDL).”

DDL is defined as learning deficits resulting from below average intellectual functioning which adversely affects educational performance, existing concurrently with measurable potential for achievement in educational and/or employment settings.

This disability can be verified by the DSPS coordinator or a DDL specialist using the documentation from a referring agency. The student is eligible by meeting one of the three standards described below:

- (1) the student has an earned standards score less than or equal to 70 on the specified ability assessment procedure; or
- (2) the student has certification from the Regional Center that the student’s earned standard score was less than or equal to 70 on an ability assessment procedure; or
- (3) the student has an earned standard score between 71 and 80 and at least one of the seven following indicators is documented. For scores greater than 80, the assessment procedure’s standard error of measurement may be considered.
  - (a) history of special education.
  - (b) history of sheltered or supported employment.
  - (c) history of unemployment or limited entry level employment.
  - (d) dependent/semi-independent living environment.
  - (e) client status with the state Department of Rehabilitation.
  - (f) client status with the Regional Center.
  - (g) academic skill deficiency.

The DDL student must be afforded access to the class/program that best meets his/her educational needs and which promotes the maximum independence and integration of these students. Special classes, if provided, may, consistent with this requirement, be offered either on- or off-campus.

### **Documentation**

Files should contain verification of disability which identifies the particular disability, the educational limitation(s) resulting from the disability, and how the student's educational performance is impeded. The verification can be determined by the DSPS coordinator or DDL specialist using documentation from the referral.

## 56042. Psychological Disability.

- (a) Psychological disability means a persistent psychological or psychiatric disorder, or emotional or mental illness;
- (b) For purposes of this subchapter, the following conditions are not psychological disabilities:
  - (1) transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
  - (2) compulsive gambling, kleptomania, or pyromania; and
  - (3) psychoactive substance abuse disorders resulting from current illegal use of drugs.

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

### Implementation

Section 56042 defines “psychological disability.”

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

- (1) is listed in the most current American Psychiatric Association Diagnostic and Statistical Manual (DSM) and is coded on Axis I or II as moderate to severe;
- (2) reflects a psychiatric or psychological condition that interferes with a major life activity; and
- (3) poses a functional limitation in the educational setting.

The term psychological disability does not include:

- (1) any condition designated by the most current DSM with a V Code signifying that it is not attributable to a mental disorder;
- (2) the following conditions listed in the most current DSM are **not** included in the California Community College definition of psychological disability:
  - (a) transvestitism, transsexuals, pedophilia, exhibitionism, voyeurism, gender identity disorder not resulting from physical impairment, or other sexual behavior disorders;

- (b) compulsive gambling, kleptomania, or pyromania; and
  - (c) psychoactive substance abuse disorders resulting from current illegal use of drugs; and
- (3) any condition designated by the most current DSM as developmental disorders (mental retardation, pervasive developmental disorder, specific development disorders, or other developmental disorder), that is covered by another disability category.

Recovering drug and alcohol abusers are considered psychologically disabled as long as they are in or have completed a recovery program and meet all other conditions for this disability category.

A psychological disability can be verified by a professional with the appropriate license, or by documentation of a referring agency if its verification was done by a professional with the appropriate license. This disability can be verified by a DSPS staff member only if that person is an appropriately licensed professional such as a licensed medical doctor, a licensed clinical psychologist or psychiatrist, a licensed Marriage, Family, and Child Counselor, or a licensed clinical social worker.

### **Documentation**

Verification documents from the licensed professional should include either the DSM and/or ICD disorder code or the name of the disorder and the license number of the professional.

## 56044. Other Disabilities.

This category includes all students with disabilities, as defined in Section 56002, who do not fall into any of the categories described in Sections 56032-42 but who indicate a need for support services or instruction provided pursuant to Sections 56026 and 56028.

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

### Implementation

Section 56044 defines “other disabilities.”

This category includes all other verifiable disabilities and health related limitations that adversely affect education performance but do not fall into any of the other disability categories. Therefore, it is first necessary to consider whether the condition qualifies in any of the specific disability categories discussed in Sections 56032 thru 56042. If so, the student should be reported under the appropriate disability specific category. A student should only be categorized under “other” if the student has a current verifiable impairment which meets the general definition of disability under Section 56002 and also has an educational limitation as defined in Section 56004, but does not qualify in any of the disability specific categories.

Other disabilities include conditions having limited strength, vitality, or alertness due to chronic or acute health problems. Examples are environmental disabilities, heart conditions, tuberculosis, nephritis, sickle cell anemia, hemophilia, leukemia, epilepsy, acquired immune deficiency syndrome (AIDS), diabetes, etc.

A person may be protected under Section 504 and the Americans with Disabilities Act because he or she has a history of disability or is perceived as having a disability. However, it is important to keep in mind that such individuals may not qualify for services from the DSPP program because they do not have a current impairment or their impairment does not give rise to an educational (functional) limitation.

A disability in the “other disabilities” category must be verified by an appropriate licensed professional or through documentation from a referring agency that obtains its verification from an appropriate licensed professional. A DSPP staff member can verify this disability only if that person is an appropriately licensed professional.

## Documentation

Files should contain verification of disability which identifies the particular disability, the educational limitation(s) resulting from the disability, and how the student's educational performance is impeded. The verification must be signed by the appropriate professional.

## 56046. DSPS Program Plan.

- (a) Each district receiving funding pursuant to this subchapter shall 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) Each district shall submit updates to its program plan to the Chancellor upon request.
- (c) The program plan shall be in the form prescribed by the Chancellor and shall contain 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.

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

### Implementation

Section 56046 sets forth the requirements for the DSPS Program Plan. The form for the plan is set forth in Subsection C(1-4). The Chancellor's Office will notify the colleges of the submission and approval process at a later date.

### Documentation

Copies of the plan should be kept on file in the college DSPS office together with the letter of approval by the state Chancellor's Office.

## 56048. Staffing.

- (a) 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 or Chapter 4 of this division.
- (b) Each district receiving funds pursuant to this subchapter shall designate a DSPS Coordinator for each college in the district. For the purpose of this section, the Coordinator is defined as that individual who has responsibility for the day-to-day operation of DSPS. The designated Coordinator 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 predominately 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 predominately or exclusively related to persons with disabilities.
- (c) Districts receiving funding pursuant to this subchapter may also employ classified and/or paraprofessional support staff. Support staff shall function under the direction of a DSPS counselor, instructor, or Coordinator as appropriate for the support services or instruction being provided.

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

### Implementation

Section 56048 identifies the minimum qualification the district must utilize for DSPS counselors and instructors. This section also identifies the additional minimum qualification for the person selected as the coordinator of the DSPS program. The coordinator is the individual who has day-to-day responsibility for the DSPS program. The DSPS coordinator salary is the only administrative cost that can be considered as a legitimate DSPS expenditure.

### Documentation

Documentation should indicate that the DSPS coordinator, DSPS counselor and DSPS instructor meet the minimum qualifications as set forth in Section 53414(a)

through (d) with the DSPS coordinator meeting the additional minimum qualification set forth in subsection 56048 (b).

## 56050. Advisory Committee.

Each district receiving funds pursuant to this subchapter shall establish, 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 students with disabilities and representatives of the disability community and agencies or organizations serving persons with disabilities.

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

### Implementation

The advisory committee should give guidance and direction to the DSPPS program and college related to needs of the local community.

### Documentation

A roster of committee members which indicates the affiliation of the member and dates and minutes of the meetings should be maintained and available for review upon request.

## 56052. Evaluation.

The Chancellor shall conduct evaluations of DSPTS 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, 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. Sec. 794), compliance with Education Code Section 67311.5 with respect to parking for persons with disabilities, and data on the implementation of the program as outlined in Education Code Sections 84850.

**Note:** Authority cited: Sections 67312, 70901 and 84850, Education Code. References: Sections 67310-12 and 84850, Education Code and 29 U.S.C. Sec. 794.

### Implementation

Section 56052 indicates that each college's DSPTS program will be evaluated every five years following the same cycle as the college's self-study year for the accreditation process. The DSPTS 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 DSPTS Program Evaluation process. The college may be asked to provide a variety of information (budgets, DSPTS Program Plans, college's Section 504 and ADA self-evaluation, organizational charts, advisory committee membership rosters, etc.) to the evaluation team as part of the evaluation.

### Documentation

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

## 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. Such projects 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 special projects shall be funded from the three percent set-aside authorized pursuant to Education Code Section 84850(e).
- (b) Where such special 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 67310-12 and 84850, Education Code.

### Implementation

Section 56054 gives the Chancellor's Office the authority to conduct studies, convene task force, evaluation teams and trainings, etc., that foster program development and accountability.

### Documentation

Documentation of special projects shall be maintained by the Chancellor's Office.

ARTICLE 4.

**FUNDING AND ACCOUNTABILITY**

## 56060. Basis of Funding.

Any community college district shall be entitled to receive funding pursuant to Education Code Section 84850 to offset the direct excess cost, as defined in Section 56064, of providing support services or instruction, or both, to students with disabilities enrolled in state-supported educational courses or programs.

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

### Implementation

Section 56060 authorizes the state Chancellor's Office to calculate the allocation of funds on a college-by-college basis, yet the funds must legally be distributed to the districts. If a multi-college district wants a redistribution of the allocated funds to their individual colleges, the district 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.

## 56062. Provision of Support Services or Instruction.

A community college district will be deemed to have “provided support services or instruction” to a student with a disability, as required by Section 56060, if the student is enrolled in a special class or is enrolled in a regular class and received four or more service contacts per year with the DSPS program.

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

### Implementation

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 a student with a disability must be enrolled in either a special class or a regular class at the college. If the student with a disability is enrolled in a regular class, the student must receive four or more service contacts during the academic year. A service contact is defined as each time a service, as defined in Section 56026, is provided to the student.

A student who is auditing a class or who is taking community service classes is not eligible for services funded through the DSPS program. Although, the college should keep in mind that it has an obligation to provide services to students with disabilities in these and other instances 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. The file should contain a college transcript of general as well as special classes and/or independent study in which the student is enrolled, amount and type of special services received, and verification of disability information.

## 56064. Direct Excess Costs.

Direct excess costs are those actual fixed, variable, and one-time costs (not including indirect administrative costs, as defined in Section 56068) for providing support services or instruction, as defined in Sections 56026 and 56028, which exceed the combined total of the following:

- (a) the average cost to the district of providing comparable services (as defined in Section 56066) to nondisabled students times the number of students receiving such services from DSPTS;
- (b) the revenue derived from special classes as provided in Section 56070; and
- (c) any other funds for serving students with disabilities which the district receives from federal, state, or local sources other than discretionary district funds.

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

### Implementation

Section 56064 defines direct excess costs as the expenditures, excluding indirect administrative costs, that the college incurs while serving students with disabilities which exceeds expenditures paid by revenue derived from:

- (1) comparable services (Section 56066);
- (2) special classes (Section 56070); and
- (3) 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., VATEA.

Direct excess costs are expenditures that can be paid with DSPTS categorical funds or money from the college general fund (college effort).

### Documentation

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

## 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 nondisabled students. These services include, but are not limited to:
  - (1) job placement and development as described in Section 56026(a)(2);
  - (2) registration assistance as described in Section 56026(a)(4);
  - (3) special parking as described in Section 56026(a)(5);
  - (4) assessment as described in Section 56026(b)(2);
  - (5) counseling as described in Section 56026(b)(3);
  - (6) tutoring as described in Section 56026(b)(11); and
  - (7) outreach as described in Section 56026(b)(12).
- (b) Districts which claim reimbursement for direct excess costs 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 non-disabled students; 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 DSPTS.
- (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 4 (commencing with Section 58730) of Subchapter 4 of Chapter 9 of this division.

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

### Implementation

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

## 56068. Indirect Administrative Costs.

As used in Section 56064, the term “indirect administrative costs” means any administrative overhead or operational cost, including but not limited to, the following:

- (a) college administrative support costs, such as staff of the college business office, bookstore, reproduction center, etc.;
- (b) administrative salaries and benefits, with the exception of the DSPS Coordinator;
- (c) indirect costs, such as heat, light, power, telephone, FAX, gasoline, and janitorial;
- (d) costs of construction, except for removal or modification of minor architectural barriers;
- (e) staff travel costs for other than DSPS-related 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) costs of dues or memberships for DSPS staff;
- (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) equipment which is not, in whole or part, adapted for use by students with disabilities.

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

### Implementation

Section 56068 describes expenditures that cannot be considered direct excess costs. These administrative expenditures (with the exception of the DSPS coordinator’s salary) are the responsibility of the district and should not be considered, in any part, as a DSPS program expenditure for reporting purposes.

### Documentation

Indirect administrative costs, with the exception of the DSPS coordinator’s salary, should not be included in any of the accounting codes maintained for DSPS expenditures. These indirect administrative expenditures should not appear in the DSPS End-of-Year report.

## 56070. Revenue from Special Classes.

- (a) For purposes of Section 56064(b), the revenue derived from special classes, for fiscal year 1995-96 and all subsequent years, shall be calculated by adding together the following:
  - (1) the FTES instructional noncredit rate times the number of units of FTES in noncredit special classes; and
  - (2) the FTES instructional credit rate, not including indirect administrative costs, times the number of units of FTES in credit special classes for each college in the district.
- (b) In implementing this section, the Chancellor shall insure that increases or decreases in the amount of special class revenue attributed to a district solely as a result of the adoption of the “disaggregate” method of calculation described in subdivision (a) shall be spread evenly over a three (3) year phase-in period ending with full implementation for fiscal year 1995-96.
- (c) Revenue from special classes shall be used for the provision of support services or instruction pursuant to Section 56026 and 56028 and shall not be used for indirect administrative costs as defined in Section 56068.

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

### Implementation

Section 56070 describes the revenue calculations for special classes. This method uses program based funding as a model. In program based funding each college has a dollar amount for instructional cost of credit FTES depending on the size of the college and there is a statewide FTES rate for noncredit. These rates include only the instructional cost of the class.

The instruction cost rate for credit and noncredit classes will be calculated by the Chancellor’s Office using information generated by program based funding during the first principal apportionment. This revenue may be spent in support of the special class and to provide support services.

Special class FTES is generated the same way as regular class FTES. For purposes of reporting, a class is a special class if it meets the criteria outlined in Section 56028 and serves students with disabilities as defined in Sections 56032-56044. The combined special 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 DSPP 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. Special classes must also be identified as a special class and all sections of these classes have to be identified as a special section in the district's MIS system.

## 56072. Allocations; Reports; Audits; Adjustments.

- (a) 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 DSPTS program plan and the requirements of this article.
- (b) A portion, not to exceed 10 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 the direct excess cost, as defined in Section 56064, of providing support services or instruction to students with disabilities.
- (c) Each district shall submit such enrollment and budget reports as the Chancellor may require.
- (d) The Chancellor shall provide for audits of DSPTS programs to determine the accuracy of the reports required pursuant to subdivision (c).
- (e) 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 67310-12 and 84850, Education Code.

### Implementation

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 DSPTS allocation as "college effort." College effort is used to generate 10 percent of the DSPTS allocation. This subsection also defines "unspent" DSPTS 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 DSPTS program at the colleges.
- (5) gives the state Chancellor's Office the ability to adjust allocated amounts during the fiscal year and up to three preceding fiscal years.

### Documentation

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

## 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 67310-12 and 84850, Education Code.

### Implementation

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.

### Documentation

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

## 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.

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

### Implementation

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.