



Digest

Digest means an item that has been through internal review of the Chancellor's Office and the review entities. The item now has form and substance, and is officially "entered into Consultation." The Council reviews the item and provides advice to the Chancellor.

CONSULTATION

Title: Disabled Student Programs and Services (DSPS) Regulations rewrite

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Background

Disabled Student Programs and Services (DSPS) was created with the enactment of Assembly Bill 77 (Lanterman), in 1976 and codified in Education Code, Section 84850 and Title 5, California Code of Regulations (5 CCR) Sections 56000-56076. It's funds support services and instructional programs for students with disabilities in the California Community Colleges. Several events in recent years brought about the consideration of possible revisions to the Title 5 regulations governing DSPS, including: amendments to the Americans with Disabilities act (ADAA) in 2008; the 2012 Chancellor's Office study of the "Other Disability" group and policy implications related to its use; recent audit findings related to DSPS; and the need to more closely align Title 5 regulations with the Section 504 regulations for postsecondary education, the regulations of Government Code section 11135 et. seq. and the ADA.

As a result of these events, a policy workgroup of key stakeholders was formed in 2012; its main recommendation was to update and clarify Title 5 regulations pertaining to DSPS. Subsequently, a Title 5 Rewrite workgroup was initiated in October 2013 to provide all stakeholders an opportunity to generate ideas for updating the Title 5 Regulations and Guidelines.

Proposal

The proposed updated regulations address several key areas in the regulations; key themes including: gaps and other inconsistencies among state and federal regulations; complex, changing, and/or evolving regulations; significant student needs, including trends; and terminology modernization. These updates specifically include: modernization of terminology and updating/correcting technical language throughout the regulations, removing the requirement of the Student Education Contract and adding a requirement for an Educational Accommodations Plan (EAP) which is unique to DSPS, adding clarification to the staffing requirements of a DSPS Program, adding three new reporting categories (disabilities) for students with disabilities, and updating and clarifying both the allowable and non-allowable program fund expenses.

The draft proposed regulations and a section-by-section analysis of the proposed changes are attached for review and discussion.

ATTACHMENT 1

BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES PROPOSED REVISIONS TO TITLE 5 REGULATIONS: DISABLED STUDENT PROGRAMS AND SERVICES

1. Section 56000 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56000. Scope of Chapter.

This subchapter applies to community college districts offering ~~support services, 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-~~12 et seq.~~ and 84850.

Programs receiving funds allocated pursuant to Education Code section 84850 shall meet the requirements of this subchapter. Any ~~support services, 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;
- and
- (e) not include any change to curriculum or course of study that is so significant that it alters the essential nature and measurable objectives of the curriculum or course of study, thereby causing a fundamental alteration; and
 - ~~(e)~~(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, 67310-67312 et seq.,~~ and 84850, Education Code; and title 42 of United States Code section §12101.

2. Section 56001 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is added to read:

§ 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 listed 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 essential nature 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 non-disabled students, 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 67310-12 and 84850, Education Code.

3. Section 56002 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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. 35.014, and mental or physical disability as defined in Government Code section 12929 which imposes an educational limitation as defined in section 56004~~1~~. 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 ~~et seq.~~ and 84850, Education Code; and title 28 United States Code section 35.014.

4. Section 56004 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is deleted:

~~§ 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 67310-67312 and 84850, Education Code.

5. Section 56005 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is deleted:

~~§ 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 67310-67312 and 84850, Education Code.

6. Section 56006 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56006. Determination of Eligibility.

(a) In order to be eligible for ~~support services or instruction~~academic adjustments, auxiliary aids, services and/or instruction authorized under this chapter, 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~~ certificated DSPS staff ~~with review by the DSPS coordinator;~~

(2) assessment by ~~appropriate DSPS professional staff~~ 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 ~~appropriate DSPS professional staff~~ certificated staff and described in the ~~Student Educational Contract (SEC)~~ 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 ~~56004~~ 56001.

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

7. Section 56008 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56008. Student Rights

(a) Participation by students with disabilities in Disabled Student Programs and Services shall be entirely voluntary.

(b) Receiving ~~support services~~ 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 2 (commencing with Section 54600) of Chapter 5 of this Division.

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

8. Section 56010 of article 1 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56010. Student Responsibilities.

(a) Students receiving ~~support services~~ 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 Academic Accomodations Plan (AAP) Student's Student Educational Contract or,

(4) when the student is enrolled in a regular general college course classes, meet academic standards established by the college, as applied to all students, pursuant to subchapter 8 (commencing with section 55750) of chapter 6 of this division~~1 of chapter 6.~~

(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)(34)~~ 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.

9. Section 56020 of article 2 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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 support services academic adjustments, auxiliary aids, services and/or instruction available through the DSPS Program.

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

10. Section 56022 of article 2 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56022. ~~Student Educational Contract~~Academic Accommodation Plan (AAP).

~~—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.~~

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 imposed by 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.

11. Section 56026 of article 2 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56026. ~~Support~~Academic Adjustments, Auxiliary Aids and Services.

~~Support~~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 ~~regular~~general services provided to all students. Such services

enable students to participate in ~~regular~~general 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 DSPS program or purchased with funds provided under this subchapter.~~

~~(c) — One-time variable costs for purchase of DSPS equipment, such as adapted educational equipment, materials, supplies, and transportation vehicles.~~

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

12. Section 56027 of article 2 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56027. Academic ~~Accommodations~~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, ~~accommodation~~ 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.

13. Section 56028 of article 2 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56028. ~~Special Class~~Educational Assistance Class Instruction.

~~Special~~Educational assistance classes are instructional activities offered consistent with the provisions of subchapter 1 of chapter 7 of division 6 of title 5, 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~~general college classes even with appropriate ~~support~~academic adjustments, auxiliary aids and 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~~an educational assistance class, a majority of those enrolled in the class must be students with disabilities.

~~Special~~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 55805.5 of this part. In addition, ~~special~~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 special 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.

14. Section 56029 of article 2 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56029. ~~Special Class Course Repeatability~~ Educational Assistance Class Course Repetition.

Repetition of special educational assistance classes is subject to the provisions of article 4 (commencing with section 55040) of subchapter 1 of chapter 6 and sections 55761-55763, and 58161 of this division. However, districts are authorized to permit additional repetitions of credit or noncredit special 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 special educational assistance classes is dependent on additional repetitions of a specific class;

(b) When additional repetitions of a specific special educational assistance class are essential to completing a student's preparation for enrollment into other ~~regular or special~~ general or educational assistance classes; or

(c) When the student has a ~~student educational contract~~ Academic Accommodation Plan which involves a goal other than completion of the special 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 title 29 United States Code section 794.

15. Section 56032 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56032. Physical Disability.

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

~~—(a) Visual impairment means total or partial loss of sight.~~

~~—(b) Mobility or orthopedic impairment means a serious limitation in locomotion or motor~~

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

16. Section 56034 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56034. ~~Communication Disability~~Deaf and Hard of Hearing (DHH).

~~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.~~ Deaf and Hard of Hearing (DHH) is defined as a total or partial loss of hearing function which impedes 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.

17. Section 56035 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is added to read:

§ 56035. Blind and Low Vision.

Blindness or low vision is defined as visual impairments that impede 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.

18. Section 56036 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56036. Learning Disability.

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 continues despite instruction in standard classroom situations impedes the student's ability to access the educational process. To be categorized as a student with a learning disability, a student must ~~exhibit~~ 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) ~~Severe~~ Statistically significant processing deficit(s); and/or
- (c) ~~Severe~~ Statistically significant aptitude-achievement discrepancies; 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.

19. Section 56037 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is added to read:

§ 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 impedes 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.

20. Section 56038 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56038. ~~Acquired Brain Impairment~~ Attention-Deficit Hyperactivity Disorder (ADHD).

~~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.~~ Attention-Deficit Hyperactivity Disability (ADHD) is defined as a neurodevelopmental disorder that is a persistent deficit in attention and/or hyperactive and impulsive behavior that impedes 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.

21. Section 56039 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is added to read:

§ 56039. Intellectual Disability (ID).

Intellectual disability (ID) is defined as significant limitations both in intellectual functioning and in adaptive behavior that affect and impedes 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.

22. Section 56040 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56040. ~~Developmentally Delayed Learner~~Autism Spectrum.

The developmentally delayed learner is a student who exhibits the following:
—(a) below average intellectual functioning; and
—(b) potential for measurable achievement in instructional and employment settings
Autism Spectrum disorders are defined as neurodevelopmental disorders described as persistent deficits which impede the student's ability to access the educational process. Symptoms must have been present in the early developmental period, and cause clinically significant impairment 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.

23. Section 56042 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56042. ~~Psychological Disability~~Mental Health Disability.

(a) ~~Psychological~~Mental Health disability means is defined as a persistent psychological or psychiatric disorder, or emotional or mental illness, and impedes the student's ability to access the educational process.
—(b) For the purpose of this subchapter, the following conditions are not psychological disabilities: 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.

- (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.
- (c) In developing the allocation formula required under Section 56072, the Chancellor shall assign a zero weight to students with psychological disabilities until such time as the state budget provides additional funds to serve this population.

Note: Authority cited: Sections 67312, 70901, and 84850, Education Code. Reference: Sections 67310- 12 and 84850, Education Code; title 42 United States Code section 12101;

American Psychiatric Association. (2013) Diagnostic and statistical manual of mental disorders (5th ed., tex rev.). Washington DC: Author.

24. Section 56044 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56044. Other Health Conditions and 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~~with other health conditions, and/or disabilities that affect a major life activity, which are otherwise not defined in sections 56032-56044, but which impede 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.

25. Section 56046 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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) Each district shall submit updates to its program plan to the Chancellor upon request.~~

~~—(c) 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 shall be in the form prescribed by the Chancellor and shall~~ 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.

26. Section 56048 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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 of Chapter 4 of this Division~~ 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 title 5 sections 56000 et. seq. 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 responsibilities of a faculty Coordinator will include staffing coordination. The responsibilities of a DSPS Director will include staff supervision. 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 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) 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.

(d) 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 Coordinator or Director, counselor, LD Specialist, or instructor, or Coordinator as appropriate for the support services academic adjustments, auxiliary aids, services and/or instruction being provided.

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

27. Section 56050 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is deleted:

~~§ 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 a student 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.~~

28. Section 56052 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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), ~~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 Section 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.

29. Section 56054 of article 3 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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. ~~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.

30. Section 56060 of article 4 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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 costs~~ allowable expenses, as defined in Section 56064, of providing ~~support services~~ academic adjustments, auxiliary aids, services and/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.

31. Section 56062 of article 4 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56062. Provision of ~~Support Services~~ Academic Adjustments, Auxiliary Aids, Services and/or Instruction.

A community college district will be deemed to have “provided ~~support services~~ 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 ~~special~~ educational assistance class or is enrolled in a ~~regular~~ general class and received ~~four or more service contacts per year~~ one or more service contacts each semester with the DSPS program the student attends.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310 ~~et. seq.~~ 12 and 84850, Education Code.

32. Section 56064 of article 4 of subchapter 1 of chapter 7 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56064. ~~Direct Excess Costs~~ Allowable Expenses.

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

(1) (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 DSPS;

(b) the revenue derived from ~~special classes~~ educational assistance 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.

(2) 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.

(3) Allowable expenses may also include the purchase and repair of equipment.

(4) The cost of allowable expenses may fluctuate depending on the number of students or the unit load of the students.

(5) As used in chapter 7 of division 6 of title 5, 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 67310-12 and 84850, Education Code.

33. Section 56066 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is added:

§ 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 described in Section 56026 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~~ accessible 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~~ 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 nondisabled 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 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 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.

34. Section 56068 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56068. ~~Indirect Administrative Costs~~ Non-Allowable Expenses

As used in Section 56064, the term “indirect administrative costs” means any administrative overhead or operational cost, including but not limited to, the following. The following expenses are not allowed to be paid by DSPS funds, including but not limited to:

- (a) college administrative ~~support costs, such as staff salary and benefit costs (e.g., staff of the 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) ~~staff travel costs for 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) ~~costs of dues or memberships for DSPS staff~~ 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~~
- (l) (m) equipment which is not, in whole or part, adapted for use by students with disabilities 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 67310-12 and 84850, Education Code.

35. Section 56070 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 56070. Revenue From Special Educational Assistance Classes

- (a) ~~For purposes of Section 56064(b), the revenue derived from special classes shall be calculated by adding together the following:~~
- (1) ~~the FTES instructional non-credit 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) ~~Revenue from special educational assistance classes shall be used for the provision of support~~ academic adjustments, auxiliary aids services and/or instruction pursuant to section 56026 and 56028 and shall not be used for indirect administrative costs non-allowable expenses as defined in Section 56068.

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

36. Section 56072 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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 DSPS program/unit plan pursuant to Section 56046 and the requirements of this Article.

(b) A portion, not to exceed ~~40~~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 ~~the direct excess costs~~its allowable expenses, as defined in Section 56064, of providing ~~support~~academic adjustments, auxiliary aides and 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 DSPS 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.

37. Section 56076 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 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 67310-12 and 84850, Education Code.