

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

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 required objectives or content of the curriculum in the approved course outline or course of study, thereby causing a fundamental alteration;~~
 - (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 42 U.S.C. Sec. 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~~ described in Section 56026 and/or educational assistance class instruction authorized under Section 56028.

(b) Fundamental Alteration: A fundamental alteration means any change to a course curriculum or course of study that is so significant that it alters the ~~required objectives or content of the curriculum in the approved course outline~~ 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 disabilities, without specific additional academic adjustments, auxiliary aids, services and/or instruction.

(d) Educational Assistance Classes: educational assistance classes are instructional activities offered consistent with the provisions of Section 56000 designed to address the educational limitations of students with disabilities who are admitted to the institution pursuant to Educational Code Sections 76000 et seq. and who would be unable to substantially benefit from general college classes even with appropriate academic adjustments, auxiliary aids and services. This term replaces Special Classes, as used throughout Division 6 of Title 5.

(e) Certificated staff: Certificated staff members are those who meet the minimum qualifications set forth in Section 53414 and 53420, Minimum Qualifications for Disabled Student Programs and Services Employees.

(f) Academic Accommodation Plan: The Academic Accommodation Plan (AAP) is a record of the interactive process between each DSPS student and a DSPS professional staff member regarding the academic adjustments, auxiliary aids, services and/or instruction necessary to provide the student equal access to the educational process.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-12 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. 35.104, and mental or physical disability as defined in Government Code section 12926 which imposes resulting in 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 28 U.S.C. Sec. 35.104.

4. 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. An 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 ~~resulting from~~ 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.

5. 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.~~ is defined as a limitation in locomotion or motor functions. These limitations are the result of specific impacts to the body's muscular-skeletal or nervous systems, and limit 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 function.~~

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

6. 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 that limits 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.

7. 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 limit 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.

8. 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 (LD).

Learning disability (LD) is defined as a persistent condition of presumed neurological dysfunction which may exist with other disabling conditions. The dysfunction is not explained by lack of educational opportunity, lack of proficiency in the language of instruction, or other non-neurological factors, and this dysfunction continues despite instruction in standard classroom situations, impedes ~~limits~~ the student's ability to access the educational process. To be categorized as a student with a learning disability ~~learning disabled~~, 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 discrepancy(ies); and
- ~~(d) Measured achievement in an instructional or employment setting.~~

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

9. 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 ~~limits~~ the student's ability to access the educational process.

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

10. 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 Disorder (ADHD) is defined as a neurodevelopmental disorder that is a persistent deficit in attention and/or hyperactive and impulsive behavior that impedes ~~limits~~ the student's ability to access the educational process.

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

11. 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~~ limits 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.

12. 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 ~~limit~~ ~~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~~ limitation 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.

13. 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 ~~disability disorder~~, or emotional or mental illness ~~that limits, and impedes~~ the student's ability to access the educational process. ~~(b) For purposes 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; 42 U.S.C. Sec. 12101; American Psychiatric Association (2013). *Diagnostic and Statistical Manual of Mental Disorders* (Fifth ed.). Arlington, VA: American Psychiatric Publishing.

14. 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 limit~~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.

15. 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 Subchapter 1 of Chapter 7 of this Division. For the coordinator or director, those responsibilities shall include, but are not limited to, integration of DSPS into the college's instruction and services, the provision of academic adjustments, auxiliary aids, and services, maintaining knowledge of the legal responsibilities regarding students with disabilities participation in the educational process, and budget planning. The designated ~~€~~coordinator or director must meet the minimum qualifications for a DSPS counselor or instructor set forth in Section 53414(a) through (d) or meet the minimum qualifications for an educational administrator set forth in Section 53420 and, in addition, have two (2) years full-time experience or the equivalent within the last four (4) years in one or more of the following fields:

- (1) instruction or counseling or both in a higher education program for students with disabilities;
 - (2) administration of a program for students with disabilities in an institution of higher education;
 - (3) teaching, counseling or administration in secondary education, working predominantly or exclusively in programs for students with disabilities; or
 - (4) administrative or supervisory experience in industry, government, public agencies, the military, or private social welfare organizations, in which the responsibilities of the position were predominantly or exclusively related to persons with disabilities.
- (c) Persons employed pursuant to this Subchapter as counselors or instructors of students with disabilities shall meet minimum qualifications set forth in Section 53414 of Subchapter 4 of Chapter 4 of this Division.
- (d) Districts receiving funding pursuant to this subchapter may also employ classified and/or paraprofessional support staff. Support staff shall function under the direction/coordination 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.

16. 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, for either the District or at each college in the district, an advisory committee which shall meet not less than once per year.

The advisory committee shall, at a minimum, include a student with a disability, 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 et seq. and 84850, Education Code.

17. 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 without disabilities times the number of students with disabilities 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, unless an exception to the funding limitation has been granted by the Chancellor's Office.

(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 Subchapter 1 of Chapter 7 of this Division, allowable expenses refers to direct excess costs, as is defined in Education Code Section 84850(c).

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

18. Section 56066 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:

§ 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 without disabilities. 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 56062(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 without disabilities; or

(2) collect and report to the Chancellor, on forms prescribed by the Chancellor, data showing the number of new and the number of continuing students with disabilities enrolled in credit courses who received one or more such services, in whole or in part, from DSPS.

(c) The Chancellor shall adjust the allocation of each district by the number, if any, of students reported pursuant to subdivision (b)(2), times the applicable credit student services funding rates for new and continuing students calculated pursuant to Article 4 (commencing with Section 58730) of Subchapter 48 of Chapter 9 of this Division.

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