

APPENDIX D

TITLE 5 REGULATIONS AND DSP&S IMPLEMENTATION GUIDELINES

DISABLED STUDENT PROGRAMS AND SERVICES

IMPLEMENTING GUIDELINES

For Title 5 regulation

May 1, 1997

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Regulations for DSPS (Title 5, California Code of Regulations, Sections 56000-56076), which were rearranged, updated or repealed in November 1992.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, 1102 Q Street, Third Floor, Sacramento, California 95814.

This is the entire **Table of Contents** for the **Title 5/DSP&S Regulations and Implementation Guidelines** - Only the underlined and * sections are of most importance to adapted physical education and appear in Appendix D.

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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 66701, 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 post-secondary 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 DSP&S 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, do not meet the educational needs of students with disabilities. Under Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 794), students with disabilities must have access to the general college services and instructional process. The DSPS program is intended to provide the additional, specialized support which allows students with disabilities to more fully access and benefit from the general offerings and services of the college. For example, tutoring services provided through the DSPS program should provide disability-related tutoring rather than general tutoring available through the Learning Center, FOPS, 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 DSP&S program.** The determining factors for instruction and services should be the purpose and duration of the program. As educational institutions, colleges are designed to help students acquire skills in a particular area. **While the 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 DSPS 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 non-disabled 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 non-disabled students, without specific additional support services or instruction as defined in Section 56005. Services and accommodations provided by the DSP&S 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.

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: Actions 67312, 70901, and 84850, Education Code.

Reference: Sections 67310-12 and 84850, Education Code.

Implementation

Section 56006 requires that every student participating in the DSPTS 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 DSPTS policies and procedures which must meet regulatory requirements.

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

(1) DSPTS professional staff, with review by the DSPTS 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;

(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) DSPTS professional staff, with review by the DSPTS 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 DSPTS 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 and 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).

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 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 non-credit 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 DSPS 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. Support services may be provided anywhere, on- or off-campus, by persons who may or may not be employed exclusively by the DSPTS program. However, certain conditions must be satisfied:

- 1) the services to be provided to a student must be described in his/her Student Educational Contract in the manner prescribed in Section 56022;
- 2) the professional staff who provide counseling or instruction to students with disabilities must meet minimum qualifications set forth in Section 53414;
- 3) all staff, whether professional or paraprofessional, must be accountable to the DSPTS Coordinator with respect to reporting requirements and compliance with DSPTS regulations. This does not mean that all staff serving students with disabilities must be supervised by the DSPTS Coordinator, but she/he must have the administrative authority necessary to ensure that all services are properly coordinated and that all regulatory requirements are satisfied; and
- 4) the college must comply with the comparable services requirement described in the guidelines accompanying Section 56066, when it is implemented by the Chancellor's Office.

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 levels 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 DSPS program must not replace or supplant existing general college assessment services.

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

(b)(5) Mobility Assistance Personal attendant care is not a service to be physical assistance directly related 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 DSPS 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 DSPS 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 DSPS.

(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 DSPS 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 Service - 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 non disabled 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.

56028 - Special Classes 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 wellbeing 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 DSPTS in their review of special class offerings. It is often useful if DSPTS staff serve on curriculum committees to provide such expertise and to facilitate integration of the DSPTS program with the overall college program. DSPTS 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 DSPTS 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 DSPTS 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 FIFES revenues to the DSPTS 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 DSPTS 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 DSPTS staff teaching special classes. Information documenting that special classes meet the criteria specified above will be required as part of the DSPTS Program Plan.

56029 - Special Classes 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.

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 disaggregated 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.

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 673112 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 FIFES 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 FIFES 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 FIFES is the measure by which the state provides general apportionment funds to the college as a whole.

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

Documentation

The district's overall FIFES 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.