DSPS
Title 5 Training
Title 5 DSPS Regulations & Guidelines

Effective October 16 2015
Implementation Delayed Until July 1, 2016
Objectives:

- Provide review of new Title 5 Regulations with emphasis on major changes;
- Provide an overview of the depth and breadth of the new Title 5 Guidelines;
- Discuss specific information on each significant change to regulations;
- Discuss methods for integrating changes into program activities;
- Discuss implementation date and process for gradual adoption of new regulations. (January - July 1, 2016)
Title 5 Regulations and Guidelines

- Title 5 Regulations provide the funding mechanism for DSPS programs based on the number of students served and the types of disabilities these students have. These Title 5 funds are intended to cover the costs of serving students with disabilities, however, with or without state funding, students with disabilities still need to be served.
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.
Title 5 Regulations and Guidelines

- It is the responsibility of the colleges to establish programs, policies, and procedures which meet the requirements of these Title 5 regulations and other relevant statutes and regulations such as the Americans with Disabilities Act, as amended, and Sections 504 and 508 of the Rehabilitation Act.
The New Title 5 Regulations
Language/Terminology Updates

- Support Services to **Academic Adjustments, Auxiliary Aids and Service**
- DSPS Professional Staff to **Certificated Staff**
- Student Education Contract to **Academic Accommodation Plan**
- Regular Class to **General Class**

- Special Class Instruction to **Educational Assistance Class**
- Direct Excess Costs to **Allowable Expenses**
- Indirect Administrative Costs to **Non-Allowable Expenses**
Section 56001 Definitions

- Definition section describing:
  - Academic Adjustments, Auxiliary Aids and Services
  - Fundamental Alteration
  - Educational Limitation
  - Educational Assistance Classes
  - Certificated Staff
  - Academic Accommodation Plan
Section 56000 Scope of Chapter

- Expanded guidelines for subsections (a) through (f) Of note: Subsection 56000(c)

- DSPS funds may only be used for services for a student enrolled in state supported educational programs or courses and be consistent with state policy and funding requirements.

- For example, DSPS funds cannot be used to provide services for students with disabilities in community service fee-based classes, since they are not state supported activities. DSPS funds cannot be used for services related to co- or extra-curricular activities which are not part of a class or program. On the other hand, DSPS funds may be used to assist enrolled students with disabilities with access to other college programs such as Financial Aid, EOPS or tutoring which is a state funded program.
For the first time introduces the term fundamental alteration into the regulations

“Subsection 56000 (e)...not include any change to curriculum or course of study that is so significant that it alters the required objectives or content of the curriculum in the approved course outline thereby causing a fundamental alteration..”
Section 56027 provides a detailed break-down of what constitutes a fundamental alteration, and,

The process that is required to determine if the proposed academic adjustment, auxiliary aid(s) or service is a fundamental alteration or not.

Opportunity to develop a policy and procedures that all faculty and staff could follow.
Fundamental Alteration (cont.)

- Identify department standards
- Ensure all instructors are on the same page
- Opportunity to bridge your SLOs with:
  - Essential Functions
  - Universal Design
- OCR looks for consistency across department!
Determination of Eligibility

The change here is the addition of the term “Certificated Staff.” These are the individuals who can make the determination of eligibility and determine academic adjustments, auxiliary aids, services and/or instruction.

Certificated staff are academic employees such as coordinators/directors, counselors, LD specialists.
Determination of Eligibility (Cont.)

- The Implementation Guideline for this section states the general principles related to determination of disability and the three ways a disability can be determined by DSPS certificated staff:
  - Personal observation in conjunction with student self-report
  - Review of existing documentation
  - Assessment
Determination of Eligibility (Cont.)

Interactive Process

- Student Self-report
- Observation
- Documentation
- Verification
Academic Accommodation Plan

- Emphasizes the collaborative and deliberative process of determining the most appropriate academic adjustments, auxiliary aids, services and/or instruction.
- Must have documented process, which can be in an electronic or paper format.
- Evidence of interactive process (student signature is clearest and easiest indication.)
- No need for annual signature.
The “deliberative and collaborative process” may be documented through standardized forms as described in the “Documentation “ section, and/or through narrative notes describing the interaction(s) between certificated DSPS staff and the student.
The Academic Accommodation Plan (AAP) may take different forms and have different titles at each college. The important factor is that there is a record of the academic adjustments, auxiliary aids services and/or instruction approved for each student. There may be a single accommodation plan generated when the student first applies for DSPS services, which is then referred to while determining appropriate academic adjustments, auxiliary aids and services per class, per academic term. Or there may be multiple accommodation plans, which list the academic adjustments, auxiliary aids services and/or instruction determined and documented for each class in each academic term.
Regardless of the format, the requirement is that there must be a record of the interactive process and the academic adjustments, auxiliary aids services and/or instruction that have been approved for the student for each class.

The auditors will want to see a record of the process and outcome.

Sample AAP provided.
Section 56026 Academic Adjustments, Auxiliary Aids and Services

- Long list removed from regulation
- Updated non-exclusive list in guidelines

Remember: Technologies and services may change, not everything is listed!
Verification of disability should provide for accountability to ensure that only students with disabilities receive DSPS services.

To the greatest extent possible, students should be reported correctly to the Chancellor’s Office by type of disability to support the allocation of accurate and equitable DSPS funding.
In terms of reporting a student in a specific disability category, documentation from external sources which is used to verify a student’s disability should be evaluated to ensure it speaks directly to the student’s disability.

As always DSPS certificated staff should use their professional judgment in making their determinations.
What disability category do I choose for reporting? Remember the purpose of this is for DSPS funding/allocation.

Obtaining verification of disability should not pose undue burdens on the student with a disability and thus multiple methods to indicate the presence of a disability should be utilized in the verification process, including self-report.
The Implementation Guidelines are **NOT** requirements, but ensure that audit requirements will be met if they are followed. If a college uses alternate methods in identification/verification of disability, the burden of proof that the verification correctly identified the disability condition is on the college.
Section 56030 Reporting Requirements

- Use your Professional Judgment

- Common Sense Rules!!!
Sections 56032-56044
Disability Categories

- 56032 Physical Disability
- 56034 Deaf and Hard of Hearing
- 56035 Blind and Low Vision
- 56036 Learning Disability
- 56037 Acquired Brain Injury

- 56038 Attention-Deficit Hyperactivity Disorder (ADHD)
- 56039 Intellectual Disability
- 56040 Autism Spectrum
- 56042 Mental Health Disability
- 56044 Other Health Conditions and Disabilities
Physical disability is defined as a limitation in locomotion or motor functions. These limitations are the result of specific impacts to the body’s muscular-skeletal or nervous systems, and limit the student’s ability to access the educational process.

- A physical disability can be verified by various methods described below.
- In conjunction with the student self-report, direct observation by a certificated DSPS staff member.
Section 56032 Physical Disability Cont.

- Existing documentation from a medical facility, another public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.

- Documentation from a physician, physician’s assistant, or nurse practitioner etc.

Note: Visual Impairment moved from this category to new category Section 56035.
Section 56034 Deaf and Hard of Hearing (DHH)

Was Communication Disability

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

- Deafness or hard of hearing is interpreted to mean a functional loss in hearing and can be verified as follows:
  - In conjunction with the student’s self-report, by direct observation of a DSPS staff member of a cochlear implant or consideration of the student’s oral communication or signing skills.
Section 56034 Deaf and Hard of Hearing (DHH)

- By review of existing documentation from an audiologist, physician, physician’s assistant, or nurse practitioner, other public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.

Note: Speech and Language Impairments moved to Other Health Conditions and Disabilities
Blindness and low vision is defined as a level of vision that limits the student’s ability to access the educational process.

- Blindness or low vision can be verified by various methods described below.
- In conjunction with students’ self-report of their disability, direct observation by a certificated DSPS staff member.
Existing documentation from another public or private non-profit agency such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.

Documentation from a physician, physician’s assistant, or nurse practitioner.

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

- (a) Average to above-average intellectual ability; and
- (b) Statistically significant processing deficit(s); and/or
- (c) Statistically significant aptitude-achievement discrepancies.
In keeping with the ADAA, when verifying LD, the first step is to work with the student to determine if existing documentation is available which indicates they have LD or received services or accommodations based on their LD. If so, this information is sufficient to verify the student has LD and to report them for funding in the LD category.
If there is prior documentation, LD can be verified:

- By a review, by a Learning Disability Specialist or other DSPS Certificated staff person of documentation provided by outside agencies or an outside licensed/credentialed professional that demonstrates the student meets the Title 5 definition of a learning disability.
By the presentation to a Learning Disability Specialist, or if a Learning Disability Specialist is not available to another DSPS Certificated staff person of a public or private school IEP or similar documentation, that designates a specific learning disability, and through the interactive process determines that the student meets the Title 5 definition of a learning disability.
Section 56036 Learning Disability (LD) {Cont.}

- If there is no existing documentation which can verify LD, then an assessment should be conducted by college staff to verify if the student has LD. Such assessment should be conducted:
  - By a Learning Disability Specialist using the Chancellor’s Office officially approved California Community College Learning Disability Eligibility and Services Model (CCCLDESM);
- OR
Through the use of professionally accepted assessment measures which demonstrate that the student meets the Title 5 definition of learning disability. In such cases, the college must provide acceptable documentation to the Chancellor’s Office for each student on 1) the reason(s) for not using the CCCLDESM and 2) justification on how the assessment process utilized meets professionally accepted standards for the determination of the presence of LD as defined in this section.
With the support of the Learning Disabilities Field Advisory Group, the Chancellor’s Office is updating the form for ‘Evaluation of Outside Documentation’ for Spring 2016 release.

The form will assist LD Specialists and DSPS Certificated staff in evaluating outside documentation such as an IEP or reports from outside agencies.
The new implementation guidelines allow DSPS certificated staff to review and verify LD based on outside documentation.

When students need to be assessed, the CO considers it effective practice to use the Learning Disability Eligibility and Services Model (LDESM) to identify students with LD.
When needed, both cognitive and achievement testing should continue to be administered, even though Measured Achievement is no longer required by the LD definition.
Acquired Brain Injury (ABI) is defined as a deficit in brain functioning which results in a total or partial loss of cognitive, communicative, motor, psycho-social and/or sensory-perceptual abilities, and limits the student’s ability to access the educational process.

ABI can be verified by:

- Student self report combined with direct observation by a DSPS certificated staff person if the effects of the brain injury are observable in the student’s speech, mobility, or behavior.
- Documentation from an appropriate licensed professional such as physician, neurologist, neuropsychologist, physician’s assistant or nurse practitioner.
- Documentation from another public or private non-profit agency such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.
NEW Section 56038 Attention-Deficit Hyperactivity Disorder (ADHD)

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

An Attention Deficit Hyperactivity Disability can be verified by:

- Review by a DSPS certificated staff person of outside documentation by a professional with the appropriate license such as a medical doctor, physician’s assistant, psychologist, or licensed clinical social worker or marriage and family therapist.

- Review by a certificated DSPS staff person of documentation from a public or private agency such as an IEP or Section 504 Plan or psychoeducational academic reports.
Section 56039 Intellectual Disability (ID)

Note: Change of terminology from DDL to ID and new section number.

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

- the person's functioning level is below average intellectual ability; and

- the person has significant limitations in adaptive skill areas as expressed in conceptual, social, academic and practical skills in independent living and employment; and,

- the disability originated before the age of 18.
Section 56039 Intellectual Disability (ID) {Cont.}

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

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

- history of special education
- history of sheltered or supported employment
- history of unemployment or limited entry level employment
- dependent/semi-independent living environment
- client status with the state Department of Rehabilitation
- client status with the Regional Center
- academic skill deficiency
NEW Section 56040 Autism Spectrum

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

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

- the student is a client of the Regional Center identified as having autism spectrum disorder; or
- the student is a client of the Department of Rehabilitation identified as having autism spectrum disorder; or
- the student has documentation from a school psychologist, licensed psychologist, or physician identifying them as having autism spectrum disorder; or
- the student has an IEP or Section 504 Plan or a record of having received accommodations based on having autism spectrum disorder.
Mental Health disability is defined as a persistent psychological or psychiatric disability, or emotional or mental illness that limits the student’s ability to access the educational process. For purposes of this subchapter, conditions that are not described and/or excluded in the American Psychiatric Association Diagnostic and Statistical Manual (DSM) or the Americans with Disabilities Act (ADA) are not covered in this category.

- A mental health disability may be verified by a DSPS certificated staff member using documentation from:
  - A public or private agency such as the Department of Mental Health, a psychosocial service agency, the Department of Rehabilitation or a public or private school identifying the student as having a mental health disability or
  - documentation from a licensed psychologist, physician, licensed marriage and family therapist, or clinical social worker identifying them as having a mental health disability or
  - For students with substance abuse disorders, verification of disability and proof of participation in a treatment program may be obtained from a 12-step group leader or other treatment provider.
Section 56044 Other Health Conditions and Disabilities

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

- A health condition or other disability can be verified by various methods described below.
- In conjunction with the student self-report, direct observation of the effects of the health condition or speech disability by a certificated DSPS staff member.
- Existing documentation from a medical facility, another public or private non-profit agency serving people with disabilities such as Department of Veterans Affairs, Department of Rehabilitation, K-12, Independent Living Center, disability specific agency, DMV, Social Security, etc.
- Documentation from a physician, physician’s assistant, or nurse practitioner.
- In the case of a speech disorder, by a licensed speech professional or documentation from a public or private agency identifying the person as having a speech disorder.
DSPS Program Plan can be a unit plan or whatever your college is using for internal strategic planning as long as it meets the requirements.
Section 56048 Staffing

- Emphasizes the need for sufficient certificated staff to provide timely and effective services.
- Provides much more detail about the many responsibilities the coordinator or director may have.
- Updates the alignment between 56048 and Section 53414 (minimum qals) by adding LD Specialist (53414 changes approved by Academic Senate and will go to BOG for approval in 2016.)
Section 56062 Provision of Academic Adjustments, Auxiliary Aids, Services and/or Instruction

- Provision of Academic Adjustments, Auxiliary Aids, Services and/or Instruction
  - Student is enrolled in an Educational Assistance Class or
  - Is enrolled in a general class and receives one or more service contacts each semester the student attends.

NOTE: Semester effectively means Term.
Section 56064 Allowable Expenses

- DSPS funds cannot be spent on the salary/benefits of employees on long-term medical, administrative/disciplinary, or family leave, nor sabbatical leave.

- Equipment used by DSPS staff in the process of serving DSPS students with allowable DSPS services must have Chancellor’s Office approval.
To receive an exception for the cost of minor architectural barrier removal or modification that exceeds 1% of the current years DSPS allocation the college will be required to submit a written request for an exemption to the Chancellor’s Office. To receive an exception to this 1% cap, colleges must utilize Chancellor’s Office approved criterion (pages 86 and 90 of the Implementation Guidelines) and provide a written submission to the Chancellor’s Office.
If senior administration personnel such as a Dean or Vice-President is the DSPS Coordinator having day-to-day operational responsibility for DSPS then DSPS funds can be used for the applicable percent of FTE spent on DSPS.
Long-term leave
- DSPS funds may not be spent on salary and benefits of employees on long-term medical, administrative/disciplinary, or family leave.
- DSPS funds cannot be spent on sabbatical leave.
- This is new to DSPS but aligns with other categorical programs.
Section 56072 Allocations; Reports; Audits; Adjustments

- Authorizes Chancellor’s Office to increase the amount of DSPS funding *currently* determined by College Effort from *up to 10%* to *up to 20%*, if approved and would not take effect until academic year 17-18.

- This is not a new mandate – college effort is unique to DSPS
Preparing For An Audit During The Transition

- If you are preparing for a 15/16 audit the auditors will be using the old regulations.
- The 16/17 audits will use the new regulations, and most importantly the Chancellor’s Office will be training auditors in the new regs.
- Colleges should be aware that auditors use statute (law), regulations, and the implementing guidelines as the basis for their audits.
- Your College/District hires the auditors, therefore we encourage you to participate in any auditor training that your District provides.
Phasing in the New Title 5 Regulations

Regulations became effective October 16, 2015

- Auditors will be instructed to use current Title 5 regulations for this academic year.
- Beginning academic year 2016-17 the district auditors will shift to using the new regulations, so you have six months to prepare.

MIS Considerations for new disability categories:
- ADHD
- Autism Spectrum
- Training will be provided by MIS Director and DSPS, providing timelines for making changes to the SD Data Element.
Webinars and Further Information

- One more webinar is planned:
  - Wednesday, April 20

- New ideas/best practices that are identified throughout the 8 workshops will be posted to the DSPSSolutions website. [www dspssolutions org](http://www.dspssolutions.org)

- New documents/sample forms will also be posted.
Thank You