

## Section 56000. Scope of Chapter.

This subchapter applies to community college districts offering 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 67310-13 and 84850. Programs receiving funds allocated pursuant to Education Code section 84850 shall meet the requirements of this subchapter. Any 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;
- (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; and
- (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, 67310-67313 and 84850, Education Code; and 42 U.S.C. Sec. 12101.*

### Implementation guideline

The introductory paragraph of Section 56000 (Scope of Chapter) indicates that these regulations apply to all activities authorized under Education Code Sections 67310-12 and 84850. For districts, this means that these regulations apply to all activities funded in whole, or in part, by the State categorical allocation provided to serve students with disabilities through the Disabled Student Programs and Services (DSPS) in allowable expenses (Section 56064). These activities include academic adjustments, auxiliary aids and services as well as educational assistance classes for students with disabilities. Activities must adhere to the regulations whether or not they occur in general or educational assistance classes regardless of whether the class is offered on- or off-campus for credit, noncredit. It is important to note that since Community Service fee-based courses are not eligible for allowable cost funding, services provided to students with disabilities in such courses are not governed by these regulations. In addition, although the college has an obligation under federal and state non-discrimination laws (Section 504, the Americans with Disabilities Act and CA Government Code section 1135

et. seq.) DSPS funds cannot be used to provide these services. Therefore funding from other college sources needs to be obtained to provide the services.

Section 56000 also implements a requirement of Assembly Bill 746 (Chapter 829 Statute 1987) that expenditures under the DSPS program must conform to the six specified criteria outlined in “a thru f.” These criteria apply to funds for services to students with disabilities in public postsecondary education in California. The criteria are designed to ensure that DSPS services assist students with disabilities to equally participate in the instructional offerings of the college by providing “above and beyond” services to meet their disability-related educational limitations. The services should also foster independence and maximum integration into campus life for students with disabilities and be in conformance with the overall mission of the college.

More specifically, [Subsection 56000 \(a\)](#) prohibits provision of services or instruction which duplicate those otherwise available to all students. This means that services funded through the DSPS program should not replace or supplant existing general college services, but should go above and beyond those services in order to meet the needs of students with disabilities. Separate programs, classes, or services should only be established when general services or instruction, combined with the provision of academic adjustments, auxiliary aids, and 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. In regard to educational assistance instruction, classes must meet a unique instructional need directly related to the educational limitation.

[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 the needs students may have which do not result from their disabilities. 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. It may be valuable or even necessary for the institution to provide these types of instruction, they just cannot be paid for with DSPS funds.

**Subsection 56000 (c)** states that services or instruction must be directly related to the student's participation in the educational process. 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. In order for DSPS funding be used for activities such as field trips or co-curricular activities, they must be directly related to course requirements. In regard to activities on campus which are not directly related to the requirements of a class or to a state funded program, the college would be required under state and federal non-discrimination laws to provide such auxiliary aids and services as required by state and federal non-discrimination laws, however those must be paid for from revenue sources other than DSPS funds.

**Subsection 56000 (d)** mandates promotion of maximum independence and integration of students with disabilities. In keeping with the Americans with Disabilities Act and its amendments of 2008, this means that, to the maximum extent possible without fundamental alteration to instruction, students with disabilities should be served in integrated programs with the general student population. The provision of an academic adjustment or auxiliary aid does not mean the institution is required to make a fundamental alteration to the course. In other words, providing academic adjustments or auxiliary aids cannot substantially modify the basic required content, objectives, or goals of an assignment, course, program, or degree of study.

In keeping with this provision and recent court decisions and federal administrative direction related to the ADA, colleges should carefully examine segregated class offerings, especially those in off-campus settings to ensure they meet the criteria of maximum integration of students. In addition, as a general practice, students should not be limited or directed to off-campus segregated programs in lieu of attending general college classes with appropriate academic adjustments, auxiliary aids and services.

**Subsection 56000 (e)** requires that academic adjustments do not include any change to an approved course outline that is so significant that it alters the required objectives of the curriculum or course of study causing a fundamental alteration.

**Subsection 56000 (f)** 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 DSPP program. As an educational institution, the college is designed to help students acquire skills in a particular area. While this process may require more time due to the limitations from the disability and may require adapted instruction, its purpose should be instructional rather than therapeutic or recreational. Adaptive physical education/ kinesiology, for example, should serve as an adapted instructional mode for the learning of physical education skills—swimming, basketball, and general exercise—rather than as a method to engage in therapeutic activities.