

SECTION 56008. STUDENT RIGHTS

- (a) Participation by students with disabilities in Disabled Student Programs and Services shall be entirely voluntary.
- (b) Receiving academic adjustments, auxiliary aids, services and/or instruction authorized under this subchapter shall not preclude a student from also participating in any other course, program or activity offered by the college.
- (c) All records maintained by DSPS personnel pertaining to students with disabilities shall be protected from disclosure and shall be subject to all other requirements for handling of student records as provided in Subchapter 6 (commencing with Section 54600) of Chapter 5 of this Division.

NOTE: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310-67313 and 84850, Education Code.

Implementation Guideline

While most students with disabilities will choose to receive any needed academic adjustments, auxiliary aids, and services from DSPS, in rare cases, students may choose not to participate in the DSPS program. In such cases, students should be referred to the college Section 504 or ADA Coordinator/Compliance Officer who would typically be assigned to verify the student's disability, engage in the interactive process to determine needed supports, and ensure their provision in a timely and effective manner. In such cases, neither DSPS funding nor DSPS funded staff may be used to provide the services to assist such students.

All records maintained by DSPS personnel pertaining to students with disabilities shall be protected from disclosure and shall be subject to all other relevant statutes and regulations for handling of student records.

The Family Educational Rights and Privacy Act (FERPA) requires the college to have a policy about releasing records and student information. Student records include any and all records in any medium, maintained by the college which are directly related to a student. The classification of student records in the California Community Colleges is discussed in Sections 59023 and 5902.

verification of the disability or medical condition. In many cases, a temporary disability is observable and a certificated staff member can document the condition for disability verification purposes. The student can then be counted for funding purposes for as long as the condition lasts, DSPS services are provided, and the appropriate DSPS paperwork has been completed.

Documentation

The verification of the disability should be placed in each student's paper or electronic file. The verification should be identifiable as coming from the certificated DSPS staff member or by a representative from the agency providing the documentation.

In general any document identified as a student record is governed by FERPA except for special circumstances such as medical or mental health treatment notes made by College Health Services or campus police records.

It is advisable to develop policies and procedures for the release of DSPS records which are congruent with the college's general policy on records.

Once students reach 18 years of age or attends a postsecondary institution, they become "eligible students," and all rights formerly given to parents under Family Educational Rights and Privacy Act (FERPA) transfer to the students, unless the student is under a conservancy, in which case the authorized entity (family/agency) may make those decision on behalf of the student. It is advisable to obtain a copy of said conservancy records to ensure that the student's educational decisions have been abrogated to another.

Eligible students have the right to have access to their education records, the right to seek to have the records amended, and the right to have control over the disclosure of personally identifiable information from the records. Under FERPA, a school must provide eligible students with an opportunity to inspect and review their education records within 45 days of a request, and upon request provide copies of their education records.

It is best practice to encourage students to determine how best to share information regarding their disability and its educational limitations with faculty or other campus officials. Further, if a student requests accommodations that impact the student learning environment then the instructor, with the student's permission, may discuss the student's educational (functional) limitation(s) and the appropriate accommodation with certificated DSPS staff members. It is not advisable to disclose the nature and origin

of the student's disability to the instructor or other college staff, unless the student poses an imminent danger to self or others, where in such instances the college should follow its general code of conduct, health & safety, and/or emergency situation procedures, as necessary.

Documentation

A release of information should be in the student's file and signed by the student if any information is released regarding the student's disability. If the student refuses to sign or is unable to sign a release of information because of a disabling condition or because this is in an electronic format, a notation to that effect should be made in the student's file that verbal authorization was provided.

SECTION 56010. STUDENT RESPONSIBILITIES

- (a) Students receiving academic adjustments, auxiliary aids, services and/or instruction under this subchapter shall:
- (1) comply with the student code of conduct adopted by the college and all other applicable statutes and regulations related to student conduct;
 - (2) be responsible in their use of DSPS services and adhere to written service provision policies adopted by DSPS; and
 - (3) when enrolled in educational assistance classes, make measurable progress toward the goals developed for the course as established in the student's Academic Accommodation Plan (AAP) or,
 - (4) when the student is enrolled in general college classes, meet academic standards established by the college, as applied to all students, pursuant to Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.
- (b) A district may adopt a written policy providing for the suspension or termination of DSPS services where a student fails to comply with subdivisions (a)(2), (a)(3) or (a)(4) of this section. Such policies shall provide for written notice to the student prior to the suspension or termination and shall afford the student an opportunity to appeal the decision. Each student shall be given a copy of this policy upon first applying for services from DSPS.

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

Implementation Guideline

A student with a disability, like any other student on the campus, must adhere to the student code of conduct adopted by the college, with or without accommodations. Termination of services, suspension, or expulsion related to behavior which violates the code of conduct, must go through the same procedures as with any other student. It is critical to note that, in this process, college officials and the student should consider if there is an accommodation which does not pose a fundamental alteration which can assist the student to comply with the code of conduct.

Regarding the use of DSPS services, a college may also adopt a written policy providing for the suspension or termination of DSPS services where a student repeatedly fails to be responsible in their use of DSPS services and adhere to written service provision policies adopted by the college. Colleges should consult their Legal Counsel in the development and implementation of

such policies and should only terminate services for students no longer eligible to attend the college. When adopting such policies they should be aligned with other college policies on use of campus services and should be uniformly applied to all students receiving the specific services.

The service suspension or termination policies shall be given to each student upon applying for DSPS services. The policy should include a process were a student is:

- 1) provided with a written notice informing the student of the reasons for the impending suspension or termination of services;
- 2) permitted the opportunity to appeal the decision to suspend or terminate their services; and
- 3) provided with either a written notice of the resolution arrived at during the appeal process to continue services or a final notice for the suspension of services and the timeline and process for reinstatement of the services.

Documentation

Documentation that verifies that the student was notified of all policies dealing with the rights and responsibilities in receiving DSPS services should be in the student's file. In order to suspend or terminate DSPS services to a student there should also be a copy of all notices sent to the student about the student's abuse of DSPS services, all documents of the appeal process, and a copy of the notification of the outcome of the appeal, in the student's file.