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MARK A. HEINRICH, PH.D.
Chancellor

MEMORANDUM #2014-LGL-053

TO: Presidents, Alabama Community College System
FROM: Mark A. Heinrich, Ph.D., Chancellor 
DATE: July 21, 2014
RE: Reporting of Disabilities to DPE through DAX System

The Department of Postsecondary Education (DPE) has certain reporting and compliance obligations to various federal agencies and divisions, like the Department of Education and the Office of Vocational and Adult Education. These reporting and compliance obligations require DPE to compile information from every College in order to prevent, identify and remedy unlawful discrimination, including not discriminating against students with disabilities. (34 CFR § 100.6). DPE must have readily available data showing the extent to which disabled students are beneficiaries of and participants in federally-assisted programs.

It has come to my attention that some staff at our Colleges are not reporting to DPE when students self-report having disabilities to the Colleges, pursuant to legal concerns related to ADA, FERPA, and HIPAA. Legal advisors have advised DPE that federal regulations pursuant to the ADA, FERPA and HIPAA do not prohibit and indeed permit the Colleges to disclose the fact that a student is disabled to DPE. (34 CFR §§ 99.31(a)(3), 100.6(b); 45 CFR § 160.103).

In order for DPE to satisfy its reporting obligations and for DPE and its member Colleges to continue to receive certain federal funds, DPE needs this requested information. We therefore require each and every College to add a record in the Special Populations File in the DAX System with the code "DIS" for students who self-identify a disability. DPE requires no further information from the College on the disability itself. Please be assured that DPE protects information associated with students who attend our Colleges and complies with the applicable disclosure conditions. While personally identifiable information is reported to DPE by Colleges for DPE's purposes of aggregating information for compliance purposes, no personally identifiable student information is disclosed to another entity.

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Please forward this directive on to the appropriate staff which would be responsible for reporting this information to DPE through the DAX System. DPE appreciates your cooperation in assisting the gathering and reporting of this necessary information.

MAH/JGM/dh