

Sacred Cows or Obstacles to Progress: Reconsidering Statutory and Regulatory Restrictions on Budget Allocation--Can We Do Better?

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The Sacred Cows

- ✦ 50% Law (1961)
- ✦ AB 1725 (1988)
- ✦ 75/25% Ratio (1988)
- ✦ Faculty Obligation Number (1989)
- ✦ SB 361 (2006)
- ✦ SB 1456 (2012)
- ✦ Others



Sacred Cows and Unintended Consequences



- ✦ Laws and regulations were added one at a time to address specific issues.
- ✦ No one studied the collective impact as new laws, regulations and mandates (funded and unfunded) were proposed and enacted.
- ✦ Initial funding was sometimes provided when legislation was passed, but funding was later cut, yet the mandates remained.
- ✦ In some cases, legislation was passed without any funding to implement it, yet community colleges must still meet the requirements.

50% Law Definition



Education Code 84362 (d):

“There shall be expended during each fiscal year for payment of salaries of classroom instructors by a community college district, 50 percent of the district's current expense of education.”

50% Law Definition (cont'd)

Title 5 Section 58204 (a):

(a) “Salaries of classroom instructors” as used in Education Code Section 84362 means:

(1) that portion of salaries paid for purposes of instruction of students by full-time and part-time instructors employed by the district, and

(2) all salaries paid to district classified employees who are:

(A) assigned the basic title of “Instructional Aide” or other appropriate title designated by the governing board which denotes that the employees’ duties include instructional tasks, and

(B) employed to assist instructors in the performance of their duties, in the supervision of students, and in the performance of instructional tasks . . . An employee shall be deemed to be under the supervision of an instructor for the purpose of Education Code Section 84362 if the employee performs duties under the general direction of an instructor.

In addition, salaries of classroom instructors shall include the cost of all benefits provided such instructors and instructional aides.

50% Law - Original Intent



“Legislative history appears to demonstrate that the objective was to decrease class size in California’s public schools rather than guarantee teachers any particular level of compensation, as some have argued.”

(Fifty Percent Law: Background Paper. Community College League of California, 2000).

50% Law Issues



- ✦ The definition of instruction has changed. It no longer just takes place in the classroom, but the law applies only to classroom instruction. It does not recognize that learning occurs much more broadly and encompasses many factors beyond the traditional teaching model.
- ✦ Students are less prepared now than when the law was instituted. Colleges need to provide more support services to help them succeed—counseling, learning centers, etc. 50% law is a disincentive to fulfill these needs, especially during bad budget times.
- ✦ Workload reductions depress the instructional side while operating costs rise on the other side (utilities, etc). When costs are forced down on one side, decisions may be made for the wrong reasons on the other in order to meet 50% Law requirements.

50% Law Issues




- ✦ 50% law tends to be discussed/addressed in isolation. It interacts with 75/25 and FON but this is often not acknowledged. However, bad decisions can be made because of pressure from the laws.
- ✦ Enacted before collective bargaining was implemented in 1975 in school and community college districts (Educational Employment Relations Act – Government Code §3540 et seq.) and for a K-14 education model .
- ✦ Any release time to engage in collective bargaining counts against 50% Law because it takes faculty out of the classroom; thereby reducing instructional costs.
- ✦ Expenditures for classroom technology, hardware and software needed to offer online/distance education, instructional designers, and online tutors are not considered costs of instruction under 50% Law model.

AB 1725

- ✦ A key component of the law was “Program Based Funding” and funding formulas were included in the law for Student Services (law implemented in 1990).
- ✦ “10 plus 1”(Academic and Professional Matters), were established to include minimum qualifications for local faculty hiring, faculty service areas, and set a goal of 75% of credit hours taught by full-time faculty system-wide along with other duties assigned to faculty.
- ✦ However, these additional duties are outside of classroom instruction; therefore, are on the “wrong side” of the 50% Law calculation.

75/25 % Ratio



- ✦ A Goal, not a Mandate — no real teeth (except for the FON “penalty”).
 - ✦ Education Code §87482.6 “the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors.”
- ✦ Districts were required to spend a portion of improvement funds (much of which were never received) to improve full-time to part-time ratio.
- ✦ Program improvement funds were not included in the state’s budget after 1991, yet the goal remains.
- ✦ Progress towards the goal, as a system, has not been made . As a system, full-time to part-time ratio declined from 62 % in 2004 to 56% in 2013 system-wide.

Faculty Obligation Number

- ✦ Original Intent – designed as a mechanism to partially comply with the goal of attaining 75% of instruction provided by full-time faculty.
 - ✦ California Code of Regulations (CCR), title 5, §51025 requires community college districts to increase their base number of full-time faculty over the prior year in proportion to the amount of growth in credit FTES; §53300 defines full-time and part-time faculty.
- ✦ During a year in which the BOG determines adequate funding is available, each district's FON obligation increases approximately by its percentage increase in funded FTES in credit courses. Cost of not achieving a district's FON is the average replacement cost of a full-time faculty member, which in 2014 was determined to be approximately \$73,000 per FTEF. Payment of the "penalty" may be deferred one year but it cannot be waived.
- ✦ Issues:
 - ✦ Based on a 1988 snapshot of colleges FTES and FTEF.
 - ✦ State funding shortfalls can result in FON being frozen or decreased.
 - ✦ Sometimes FON is seen as a ceiling, not a floor
 - ✦ Does not include noncredit faculty; however, includes Librarians and Counselors.
- ✦ Only credit classroom faculty count toward meeting 50% Law obligation.

SB 361

- ✦ Enacted in 2006 in order to “equalize” per FTES funding for all districts and replace Program Based Funding, which was implemented with AB1725, but never fully funded.
- ✦ Established a minimum per-credit and non-credit FTES funding rate, with annual COLA adjustments.
- ✦ Growth rates were proposed but never enacted because of the state’s economic downturn, which began in 2007-08.
- ✦ Growth funding actually became “Restoration” funding as a result of the “workload reductions” to FTES targets and apportionment revenue funding imposed by the state on all districts.

SB1456 – Student Success Act



- ✦ Enacted in 2012 based upon recommendations from Student Success Task Force.
- ✦ Focus on student services that assists students in identifying their educational goals and providing a pathway for them to achieve their goals.
- ✦ Added services districts are required to provide include: assessment, orientation and counseling all of which are not considered instructional costs.

Others

- ✦ Minimum Conditions: Chancellor's office can remove some, or all, of a district's state funding if 19 programmatic requirements, as defined in Education Code and Title 5 as "minimum conditions" are not met. Examples of "minimum conditions" include:
 - ✦ Academic counseling, effective participation in governance, preparation of education and facilities master plans.
 - ✦ Most of the 19 requirements require expenditures that are not instructional costs as defined in 50% Law.
- ✦ Accreditation requirements.
- ✦ Hybrid (state versus local) "business model" related to issues of governance, funding, performance expectations, and accountability.

Cow to How

- ✦ Is there a “better approach” to funding California Community Colleges... while still providing “quality education”?
- ✦ If so... What, How and Who?



A Better Approach?



- ✦ Discussion questions to explore a new direction:
 - ✦ What is the true cost of educating a student today and into the future?
 - ✦ What additional resources impact a district's ability to support classroom instruction?
 - ✦ What are our priorities?
 - ✦ What are we trying to achieve?
 - ✦ What are we trying to protect?

A Better Approach?



- ✦ Discussion questions to explore a new direction:
 - ✦ How do we start the conversations?
 - ✦ How do we identify any barriers to change
 - ✦ How do we overcome the barriers?
 - ✦ How do we move forward?

A Better Approach?



- ✦ Discussion questions to explore a new direction:
 - ✦ Who should start the conversation?
 - ✦ Who needs to be a part of the conversation?

The Key to Finding a Solution



- ✦ If faculty take the lead in this conversation, it will have a much greater chance to produce results.
- ✦ Do faculty have any advantages at this time that we could use?
- ✦ Given that change is inevitable, do we want to shape it or watch it happen to us?

Thank You



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