



## **BUSINESS SERVICES DEPARTMENT**

December 1, 2009

### ***The Fifty Percent Law Requirement***

***Source: CCLC - "Fifty-Percent Law - Background Paper"***

***Rita M. Mize, Ph.D. – Director State Policy Research - December 2002***

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**Definition:** Education Code 84362 requires “there shall be expended 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.”

#### **History of 50% Law**

- Education Code 17200 **established in 1959** was the effective code section which applied to “junior colleges” as well as high schools and elementary schools. The legislative intent was:
  - That districts should accurately account for their expenditures on employees who are part-time teachers and part-time administrators;
  - That districts were required to employ an accounting system “designed to provide a separate and clear distinction between expenditures for salaries of classroom teachers employed by the district and expenditures for other purposes of the district”;
  - To define “salaries of classroom teachers” to mean the entire salary of a teacher, all of whose time was “devoted to the teaching of pupils in the district.”
- In 1959, Education Code 17503, formerly 17200, governed the issue of funding for salaries of classroom instructors and was enacted to address an imbalance that had developed between spending on administrative and instructional duties.
- In 1961 AB1789, which included former Education Code 17530, was established with the objective of reducing class size so that the classroom teacher could provide the most effective guidance and eliminate the need for “attendant administrative and counseling services.”
- In 1961, Education Code section 17503 became section 84362 and was enacted to apply to the salaries of teachers in both K-12 school districts and junior colleges.
- SB 1164 clearly required segregation only for those teachers whose duties are not full-time teaching but also include certain administrative tasks.

## ***The Fifty Percent Law Requirement (Continued)***

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**Due to differences between the regulations that govern K-12 and Community College operations, compliance with the 50% Law contradicts other requirements and laws established specifically for community colleges.**

- **Definition of Classroom Instructor: Community College vs. K-12**
  - The definition of classroom instructor contained in **Education Code 84362** makes little sense in the context of community college instruction since “a significant portion of their work is accomplished outside the classroom on other activities” whereas K-12 teachers are in the classroom virtually all day, five days per week.
  
- **AB1725:**
  - This law was enacted by the Legislature with the specific intent to authorize “more responsibility for faculty members in duties that are incidental to their primary professional duties “ and expand the definition of the appropriate role of community college faculty well beyond the classroom. As a result, community college instructors spend a portion of their time outside the classroom on activities such as:
    - Office Hours
    - Curriculum Development
    - Participatory Governance/Leadership Activities
      - COCFA President, CTA Conference Chair, Academic Senate, Tenure Coordinator, Department Chairs, Curriculum Coordinator, Basic Skills Coordinator, etc.
  
- **“Wrong” Side Expenditures That Support Instruction**
  - Fifty years after the 50% Law originated in 1959, many current community college expenditures support instruction that were not a consideration at that time and are therefore considered on the “wrong” side of the calculation:
    - Computer Technicians
    - Distance Education Support
    - On-line Course Design
    - Matriculation
  - Other expenditures that would logically be considered instructional are “wrong”:
    - Librarians
    - Counselors
    - Instructional Deans
    - Department Chair Reassign Time
    - Faculty Directors: EOPS, CWEE, NSF, Transfer Center, Athletic Director

- Stipends for Leadership Responsibilities: COCFA President, CTA Conference Chair, Academic Senate, Tenure Coordinator, Curriculum Coordinator

**Santa Clarita Community College District**

**COLLEGE OF THE CANYONS**

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- **Minimum Conditions to Receive Apportionment Funding -Title V of the California Code of Regulations and the California Education Code:**
  - The requirement that certain minimum conditions be met to operate a community college are mostly for supportive services that fall on the “wrong” side of the 50% Law and requires the adoption of regulations and establishment of procedures for:
    - Educational and Facilities Master Plan
    - Affirmative Action Employment Programs
    - District Staff and Diversity Plan
    - Approval of New Educational Center
    - Meeting Accreditation Requirements
    - Creating an Organized Counseling Program
    - Establishing of Programs of Education that Meet Approval of Chancellor
    - Academic Freedom
    - Vocational or Occupational Training Programs Review
    - Matriculation Plan
    - Shared Governance Participation – Faculty, Staff and Students
    - Student Equity Plan
    - Transfer as a Primary Mission
    - Monitoring Student Progress
    - Providing a Resource Library
    - Providing Space, Facilities, Clerical Support and an Advisory Committee for Transfer Center as well as an Internal Evaluation and Annual Report to the Chancellor’s Office
- **EERA (Educational Employment Relations Act):**
  - Through the EERA, the Legislature removed from districts the authority to determine unilaterally how much salary classroom instructors would receive, how large or small classes would be, and the role of instructors outside the classroom.
  - As a result of the EERA, the amount of salary classroom instructors receive was made subject to the negotiation process.

- However, requiring districts to negotiate with their faculty on matters affecting wages, hours and terms and conditions of employment would be contrary to the EERA (Equal Employment Responsibility Act).
- “In light of the clearly-stated intent of the Legislature with respect of the enactment of former 17503 (to limit class size) it cannot be argued successfully that the purpose of the “50% Law” was to establish a minimum compensation base from which salary negotiations would begin.”

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**RECOMMENDATION**

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***Why the Fifty Percent Law Requirement Should Be Modified to Include Other “Instructional” Expenses***

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- 1) **The Original Intent of the Fifty Percent Law was K-12 Class Size Reduction that Would Subsequently Lead to an Increase in Full-Time Faculty, Not to an Increase in Full-Time Faculty Salaries**
    - By capping the number of students and hiring more Full-Time Faculty, Full-Time Faculty (not administrators) could more appropriately provide guidance and counseling service to students.
  - 2) **Since the Original Fifty Percent Law Language Originated in 1959, Changes in Regulations and Technology Increased “Non-Instructional” Expenses That Have Fallen to the “Wrong” Side of the Fifty Percent Law Calculation, including but not limited to:**
    - On-line instruction technology support
    - Computer Labs: equipment and staff support
    - Instructional Computers (equipment)
    - Required Student Services
  - 3) **The Fifty Percent Law Contradicts Other Laws and Regulations That Govern Community Colleges And Require Expenditures on the “Wrong” Side**
    - AB1725 – Collegial Consultation/Shared Governance
    - Title V – Minimum Conditions to Receive Apportionment Funding
    - EERA – Education Employment Relations Act (Negotiations)
  - 4) **The Penalty for Non-Compliance with the Fifty Percent Law Jeopardizes Student Access and Success**
    - Each 1% shortfall to the Fifty Percent Law for SCCCD is approximately \$1 million

- Restoring this amount in the subsequent fiscal year in addition to adding this amount in instructional salaries/benefits creates a compounding deficit that will require a disproportionate adjustment to “non-instructional” expenses
- Reduced services to students that support instructional services will also hinder the instructional process, i.e. counseling, librarians, student services, computer support, custodial and maintenance, student aid, etc.

**5) Examples of “Wrong” Side Expenditures That Support Instruction**

- Fifty years after the 50% Law originated in 1959, many current community college expenditures support instruction that were not a consideration at that time and are therefore considered on the “wrong” side of the calculation:
  - Librarians
  - Counselors
  - Computer Technicians
  - Distance Education Support
  - On-line Course Design

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**The 50% Law Formula should be re-evaluated to include additional “instructional” expenditures:**

- to more appropriately reflect the cost of instruction;
- to reflect new “instructional” expenditures that did not exist 50 years ago;
- to acknowledge the balance that must exist between instruction and instructional support.

**Example 1 - SCCCD: Add Counselors, Librarians and Reassign Time to “Right Side”**

Instructional Salaries/Benefits	\$ 33,700,000
Add Additional “Instructional” Expenses	
Faculty Counselors (FT and PT)	\$ 1,083,863
Dept Chair Reassign Time	\$ 1,076,311
Librarians (FT and PT)	\$ 377,756
Fringe Benefits	\$ 507,586
Sub-Total	\$ 3,045,516
<b>Revised Instructional Expenses</b>	<b>\$ 36,745,516</b>
<b>Total Expenses</b>	<b>\$ 69,200,000</b>

**Percentage of Total**

**53.10%**

**Example 2 – SCCCD: Add to Above – Computer Techs and Distance Education Support**

Revised Instructional Expenses	\$	36,745,516
Add: Computer Technicians	\$	991,139
Distance Educ Support/On-Line Course Design	\$	112,845
Additional Fringe	\$	<u>220,797</u>
<b>Revised Instructional Expenses</b>	<b>\$</b>	<b>38,070,297</b>
<b>Total Expenses</b>	<b>\$</b>	<b>69,200,000</b>
<b>Percentage of Total</b>		<b>55.01%</b>

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