

# The 50 Percent Law: Valuing Education Over Administration

by Teri Bernstein, Santa Monica College

*Editors' note: The Santa Monica College Faculty Association, an independent union, brought a legal challenge to the college district's implementation of the 50 percent law. The issues described here may be ultimately decided by a court.*

Most of us deal with personal budgets that are full of constraints—house and car payments, saving for college or retirement, emergency repairs to belongings or bodies. Our core values guide our personal financial decisions, and these financial decisions shape our lives in major ways.

The California Community Colleges also make financial decisions based on core values. While the governor's budget and annual legislative battles reflect the short-term changes in political power (which FACCC helps us influence) these primarily address the allocation of new revenue to the community college system. But the core values that guide the expenditures of these resources, once revenues have been allocated, have been established by the "50 Percent Law" (Education Code 84362).

Legislators envisioned at least half the funds going to instruction—and a big part of the non-instructional funds spent on student services. The Legislature did not envision the out-of-control growth of spending on administration and administrative "perks." According to the legislative record:

*"The policy judgement underlying this bill [50 percent law] is that school districts are expending too much money on administration...It is believed that the need for extensive counseling and administrative services would be substan-*

*tially reduced if the classroom teacher was not confronted with overly large classes and that the teacher can provide the most effective guidance." (1961 bill memorandum to the governor)*

If the Chancellor's Office and the CCC Board of Governors were to return to the core values established by the 50 percent law, more of the funds currently allocated to the CCC would be spent on instructional costs such as part-time office hours and improving the full-time/part-time faculty ratio, tempering much of the controversy that arises in the consultation process. Partnership for Excellence money could be divided based on the same split, reaffirming the need, when addressing student success issues, for spending at least half the money on instruction.

## The Law

The 50 percent law was most recently updated and reaffirmed about 10 years ago, but it has been on the books in some form for over 100 years. Its mandate is clear: at least half of each college's unrestricted operational expenditures must be for direct instruction (salaries and benefits of teaching faculty and tutors or aides supervised by teaching faculty). The law also states that partial teaching assignments must be pro-rated, and that long-term cost items like buildings are excluded from the calculation altogether (see chart below).

The problems with the 50 percent law have arisen because administrators generally do not like the constraint of a minimum spending level for instruction. The balancing requirement places a constraint on what administrators can spend on themselves. Administrators want the "flexibility" to spend all the money without constraint. Unfortunately, "exclusions" that go beyond the loopholes allowed in the

50 percent law balance	
Direct Instruction of students	Student service faculty Supplies and Utilities Classified employees Administrators and Consultants Travel and entertainment expenses Campus repair and maintenance
Outside of calculation: books, equipment, facilities, categorical, community service	

law and "miscodings" which obscure the reality of the expenditures can provide flexibility that does not exist in the 50 percent law itself. This is why enforcement of this law is so essential.

### Enforcing the 50 Percent Law

The Chancellor's Office and the CCC Board of Governors are responsible for enforcing this law. They do this through rules and regulations in Title 5, making auditing requirements, and reviewing forms and reports. These appear to provide enforcement guidelines in form, but fail to live up to the spirit of the law in substance.

The "Budget and Accounting Manual" is the basic rulebook, but interprets the law toward administrator flexibility and away from the core value of spending half the budget on instruction. Also, according to the Contracted District Audit Manual, very few items need to be examined for accuracy before district certified public accountants may certify that a district is "in compliance" with the 50 percent law. And the only way the Chancellor's Office would ever bring an enforcement problem to the CCC Board of Governors' attention is if the college district itself confessed to being out of compliance and filed for an "exemption," which most likely would be granted.

This is analogous to an individual taxpayer underpaying her taxes and then calling up the IRS to request that she be audited!

Is this adequate enforcement? We, leaders of the Santa Monica College Faculty Association, think not. Our suspicions were originally raised regarding the enforcement of this law when we saw non-instructional expenditures increasing as a percentage of the budget, but no change in the 50 percent law compliance calculation. Our investigation found that not only did there appear to be problems unique to the college, there were problems that were system-wide (see lottery sidebar).

Because the audit requirements are minimal, and the Chancellor's Office active enforcement of this law is

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## **Lottery Money: Lowering Funds for Instruction?**

**O**ne very puzzling interpretation by the Chancellor's Office is the treatment of lottery funds.

Lottery funds (Government Code 8880.5) are required to be spent on instruction. But the Chancellor's Office documents tell college districts to manually exclude their lottery funds from the entire calculation, lumping it with non-instructional expenditures like buildings.

Our college district reports the lottery expenditures on the CCFS-3 II form, a financial report filed every September with the Chancellor's Office, as "utilities" or "supplies." The result, ironically, is that a district following the chancellor's guidelines can spend less on instruction than if no lottery money had been received. In simple math terms:

#### Before lottery money

\$10,000 in expenditures

50 percent x \$10,000 = \$5,000 spent on instruction

#### After lottery money: Best case

\$1,000 in lottery money; \$11,000 total

\$5,000 before lottery on instruction

\$1,000 in instructional lottery money

\$6,000 total on instruction

or: 50 percent x \$11,000 = \$5,500 minimum

#### But—Chancellor's Office guidelines tell districts to do this:

Take the total expenditures: \$10,000

Subtract the lottery revenue - 1,000 = \$9,000

50 percent x \$9,000 = \$4,500 spent on instruction

The guidelines as interpreted by the Chancellor's Office (on the annual financial report form) decrease the amount required to be spent on instruction!

The colleges spend the money on non-educational uses that are excluded from the 50 percent law calculations.

The colleges account for the money as educational, deducting it from the instructional portion of the 50 percent calculation.

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virtually non-existent, there are easy ways for a college district that is, in fact, OUT of compliance with the law to appear to be in compliance. Districts can miscode non-instructional expenses (e.g. coordinator salaries) as instructional, and/or miscode operational expenditures to an excludable category such as community services. This manipulates the percentage. There is no way that the "voluntary compliance"-based enforcement provisions set up by the Chancellor's Office would ever catch these "mistakes."

What a temptation this situation must present to administrators longing for flexibility!

### What Can We Do?

It is too expensive, too technically demanding and too time consuming for individual unions or taxpayers to undertake correcting the problems in enforcing this law on a district-by-district basis. But we can garner support on a statewide basis for a legislative audit of this issue, to determine the extent of the problem at the district level as well as the Chancellor's Office involvement.

In addition, we can press the CCC Board of Governors to force changes in the Contracted District Audit Manual so that a level of testing occurs as part of the annual audit process that will give real assurance as to compliance with the law.

We can also pressure the Legislature to make minor corrections in the law to limit the exclusions (that drive down instructional spending requirements), and to remove the Budget and Accounting Manual from Title 5 until it is fully aligned with Education Code 84362, and an oversight committee with faculty union representation is in place to review changes before approval by the CCC Board of Governors. A separate law limiting the percentage spent on administration, or requiring a separate minimum spending on student service faculty would also serve the same purpose: spending our CCC dollars where it counts most—educating our students. That is our core value. ✪

*Teri Bernstein is chief negotiator for the Santa Monica College Faculty Association and teaches accounting and business at Santa Monica College. She has been a FACCC member since 1986.*