The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS
DATE: May 15, 2017

SUBJECT: Compliance with the Fifty Percent Law		Item Number: 4.6	
		Attachment: No	
CATEGORY:	Finance and Facilities	TYPE OF BOARD CONSIDERATION:	
Recommended By:	Mario Rodriguez, Vice Chancellor	Consent/Routine	
		First Reading	
Approved for Consideration:	Eloy Ortiz Oakley, Chancellor	Action	
		Information	X

ISSUE: This item presents required information on compliance with the Fifty Percent Law in accordance with Education Code section 84362 and California Code of Regulations (CCR) title 5, sections 59200-59210.

BACKGROUND: San Mateo Community College District (San Mateo CCD) did not meet the basic requirements of the Fifty Percent Law for fiscal year 2015-16. The district did not apply for exemption as outlined in California Code of Regulations, title 5, section 59206.

Education Code, section 84362, commonly known as the Fifty Percent Law, requires each community college district to spend at least half of its Current Expense of Education each fiscal year for salaries and benefits of classroom instructors. Districts not achieving the required 50 percent and failing to apply for an exemption, or failing to complete the application process, are still subject to the terms and conditions of the compliance requirements in the regulations. These districts are not eligible for consideration of an exemption and must retire any deficiency within the specified timeframe (CCR title 5, section 59208(c)). **(Background cont.)**

RECOMMENDATION: This item is presented for the Board's information and discussion.

(Background cont.)

Current Expense of Education generally includes the unrestricted general fund expenditures of a community college district. Excluded from the Current Expense of Education are expenditures for student transportation, food services, community services, lease agreements for plant and equipment, and other costs specified in law and regulations. Amounts expended from State Lottery proceeds are excluded, except for expenditures for instructional salaries.

Salaries of Classroom Instructors are described in the California Community Colleges Budget and Accounting Manual as "Expenditures for the full or prorated portions of salaries of all employees in contract or regular faculty positions." This includes the following expenditures:

- Prorated salaries of contract or regular instructors working a reduced load or whose assignment includes both instructional and non-instructional duties.

- Prorated salaries of administrators having a teaching assignment as part of their regular work assignment.

- Salaries of instructors on sabbatical leave.

- Extra duty days or assignments paid as part of an instructor's regular salary.

- Salaries of instructors with a dual-employment relationship, under instructional service agreements.

- Instructional aides employed to assist instructors in classroom instruction tasks during any portion of their duties.

- Applicable staff benefits.

Administering the Law

The responsibility for administering the Fifty Percent Law resides with the Chancellor and the Board of Governors. Every year, exemption application forms and applicable due dates are distributed to all districts, and the annual financial and budget reports of all districts are monitored for compliance with Education Code section 84362 and CCR, title 5, sections 59200-59210. Upon receipt of an application for exemption, Chancellor's Office staff determines whether applicable procedures have been followed, analyze supporting documentation and data, and make recommendations to the Chancellor for presentation to the Board. An independent assessment of each district's computation of compliance is also a requirement of the annual audits conducted by contracted independent audit firms pursuant to Education Code, section 84040.

Districts not achieving the required 50 percent and failing to apply for an exemption, or failing to complete the application process, are still subject to the terms and conditions of the compliance requirements in the regulations.

Compliance

Under the regulations, compliance takes up to three years after the deficiency is first identified.

1. **Fiscal Year 1**—(2015-16): The year in which the deficiency occurred.

2. **Fiscal Year 2**—(2016-17): The year during which the Chancellor's Office staff evaluates applications for exemption and the district is to begin to resolve the deficiency from 2015-16. The Board of Governors makes its decision on an exemption request at the March meeting. The Chancellor requires any district not granted a full exemption to prepare a plan for spending the unexempted deficiency on Salaries of Classroom Instructors during the next fiscal year (2017-18). The district must submit the plan by June 30, 2017. During the time between the Board of Governors' decision to not grant a full exemption and June 30, 2017, the Chancellor will direct the district's county office of education to withhold funds from the district the amount of any unexempted deficiency. Upon receipt of the June 30 plan, these funds will be released to the district. If the district expends Salaries of Classroom Instructors above 50 percent during 2016-17, the amount will reduce the unexempted deficiency.

3. **Fiscal Year 3**—(2017-18): The year in which the district recovers, by June 30, 2018, any remaining unexempted deficiency from 2015-16. This recovery includes any amount expended for Salaries of Classroom Instructors above 50 percent of the Current Expense of Education during fiscal years 2016-17.

4. **Fiscal Year 4**—(2018-19): Districts not reporting expenditures above 50 percent sufficient to cover an unexempted deficiency will have apportionment reduced in an amount equal to the remaining unexempted deficiency from 2015-16. Any amount withheld is redistributed through the apportionment process by the Chancellor's Office to all districts statewide.

Basic Aid Districts

Community college districts receive the majority of their funding in the form of "apportionments" which are provided as general purpose revenues. The exact amount of apportionment funding allocated to each district is calculated based on certain factors, primarily the number of full-time equivalent students served, as specified in Education Code and title 5 regulations. Once a district's apportionment entitlement has been calculated, local property taxes are first applied to this obligation and then state apportionment funds are provided to cover the remainder of the calculated entitlement. A basic aid district (or "excess tax school entity") is a district for which the amount of local property tax received exceeds the funding entitlement calculated under sections 2558, 42238, 84750.5, or 84751 of the Education Code. San Mateo CCD, a basic aid district, receives no state apportionment funding because local property tax revenues exceed its calculated apportionment entitlement.

Districts not achieving the required 50 percent expenditures outlined in Education Code, section 84362 are required to prepare a plan for spending the unexempted deficiency or shortfall on Salaries of Classroom Instructors in the subsequent fiscal year. The Chancellor is required to direct the district's county office of education to withhold state apportionment funds from the district for the amount of the unexempted deficiency. San Mateo CCD operates as an excess tax school entity, which precludes the normal enforcement mechanism permitted under law.

ANALYSIS: Districts not achieving the required 50 percent and failing to apply for an exemption, or failing to complete the application process, are still subject to the terms and conditions of the compliance requirements in the regulations. San Mateo CCD is not eligible for consideration of an exemption and must retire their deficiency within the timeframe outlined in CCR, title 5, section 59208(c). However, San Mateo CCD is an excess tax school entity; therefore, the Chancellor's Office cannot reduce their apportionment in future years if they do not report expenditures above 50 percent sufficient to cover an unexempted deficiency in a prior year.

Staff: *Michael Yarber, College Finance and Facilities Planning*