Agenda Item Details

Meeting: Mar 21, 2022 - Board of Governors Meeting (Amended)
Category: 6. Information and Reports
Subject: 6.4 Compliance with the Fifty Percent Law
Type: Information

Recommended By

Dr. Lizette Navarette, Executive Vice Chancellor of Institutional Supports and Success

Issue

This item presents information on compliance with the Fifty Percent Law pursuant to Education Code Section 84362 and California Code of Regulations Title 5 Sections 59204 through 59214.

Background

Existing law, commonly known as the Fifty Percent Law, requires each community college district (CCD) to spend at least half of its Current Expense of Education (CEE) each fiscal year on salaries and benefits of classroom instructors. A district that meets specified criteria may apply for an exemption. A district that does not meet the requirements of the law and that is not exempt must retire any deficiency within the specified timeframe. The Chancellor’s Office is required to direct the county to withhold funds from the general apportionment until the district has developed a plan to comply with these provisions.

Existing regulations require the Chancellor to annually present to the Board of Governors information about any district that has not met the requirements of these provisions. In 2020-21, the following three districts did not meet the requirements of the Fifty Percent Law: Marin CCD, Napa Valley CCD, and San Mateo County CCD. The districts did not apply for an exemption based on the provision of the existing regulations.

Analysis

Fifty Percent Law Compliance Requirement

Pursuant to existing law, the CEE generally includes unrestricted general fund expenditures of a community college district. Excluded from the CEE are expenditures for student transportation, food services, community services, lease agreements for plant and equipment, and some other costs. 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/or non-instructional duties.
- Prorated salaries of administrators having a teaching assignment as part of their regular work assignments.
- Salaries of instructors on sabbatical leave.
- Extra duty days or assignments paid apart of instructor’s regular salary.
- Salaries of instructors with a dual-employment relationship under instructional services agreements.
- Instructional aides employed to assist instructors in classroom instruction tasks during any portion of their duties.
- Applicable staff benefits.

Chancellor’s Office Administration of the Fifty Percent Law

The Chancellor’s Office monitors annual financial and budget reports and audit reports of all districts for compliance with the Fifty...
Percent Law. For additional data on districts’ compliance with the Fifty Percent Law, see the two attachments.

Additionally, the Chancellor’s Office distributes an application for exemption from the Fifty Percent Law. Upon receipt of an application for exemption, staff analyze supporting documentation and data, and make recommendations to the Chancellor for presentation to the Board of Governors. 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 existing law.

Under the regulations, compliance takes up to three years after the deficiency is first identified. Districts not achieving the required expenditures 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.

**Districts Not Meeting Requirements of the Fifty Percent Law**

Three districts did not spend at least half of their current expense of education on salaries and benefits of classroom instruction in 2020-2021. The Chancellor’s Office requested information on reasons for not meeting the requirement and details on any plans to resolve the deficiency. Marin CCD, Napa Valley CCD, and San Mateo County CCD are each fully community supported, or ‘basic aid’ districts, and do not receive state apportionment funds. State apportionment funds are allocated to districts primarily based on the number of full-time equivalent students served. A district’s apportionment is funded by a combination of state funds, local property taxes, and enrollment fees. However, to the extent that local property taxes, enrollment fees, or both, are sufficient to meet the entitlement, a district receives no state general funds.

Marin CCD did not meet the requirements of the Fifty Percent Law for 2020-21 and did not apply for an exemption based on the provisions of the existing regulations. Marin CCD’s deficiency is $1.5 million. Marin CCD maintains that, as a fully community supported district, it has extra resources that allow it to achieve programs, services and partnerships that other districts may not have the luxury to enjoy. Those extra resources, while not supporting the Fifty Percent Law, support the community, provide the resources to correct local societal inequities, and provide services that are many times neglected in Marin County. The additional resources, plus the millions in federal stimulus funds and reduced instructional costs associated with online teaching, have created fiscal conditions so that the district could not meet the Fifty Percent Law for this fiscal year. The district will continue to meet the needs of all of their programs to achieve educational and strategic plans.

Napa Valley CCD did not meet the requirements of the Fifty Percent Law for 2020-21 and did not apply for an exemption based on the provisions of the existing regulations. Napa Valley CCD’s deficiency is $3.1 million. Napa Valley CCD is:

1. Developing plans for a reduction in administrative positions;
2. working to reduce overall faculty-reassigned time;
3. closely evaluating the budget and accounting for salaries and other expenditures; and
4. developing additional plans to improve compliance.

San Mateo County CCD did not meet the requirements of the Fifty Percent Law for the 2020-21 fiscal year as well as past five fiscal years (2015-16, 2016-17, 2017-2018, 2018-19 and 2019-20) and did not apply for an exemption based on the provisions of the existing regulations. San Mateo County CCD’s deficiency is $14.1 million, with a cumulative deficiency incurred between 2015-2016 and 2020-21 of $54.2 million. San Mateo County CCD maintains that:

1. Its mission and strategic plan aligns with the Vision for Success while simultaneously experiencing year-over-year enrollment declines;
2. its spending reflects services its students need;
3. its faculty salaries are higher than other colleges in the region and among the highest in the state; and
4. it provides uncommon benefits to faculty such as staff housing, tuition reimbursement, and professional development.

**Withholding of State Apportionment Funds**

Marin CCD, Napa CCD, and San Mateo County CCD do not receive state apportionment funds, as they are fully community supported through local enrollment fees and property tax. Consequently, the Chancellor’s Office cannot withhold apportionment funds as defined by the budget act as a mechanism for compliance, as contemplated in the existing law.

**Attachments**

1. 2020-21 Fifty Percent Law District Compliance
2. Fifty Percent Law Five Year Trend
