

Napa Valley College
50% Law Handbook

December 2024



Table of Contents

I.	Background	2
II.	50% Law Calculation	2
III.	Salaries of Classroom Instructors	3
IV.	Salaries of Instructional Aids	5
V.	Instructional Benefits	7
VI.	Instructional Services Agreements	7
VII.	Current Cost of Education	8
VIII.	Exempted Activities	8
IX.	Other Considerations	14
X.	Application for the Exemption of the 50% Law	17
XI.	Penalties for Not Meeting 50% Law Compliance	21
	References	22

I. Background

California Education Code Section 84362 originated as former section 17503 of the 1959 Education Code. When enacted from 1959-1961, there were two legislative objectives as follows:

- Senate Bill 1164 which was intended to identify teachers whose duties included some administrative tasks.
- Assembly Bill 1789 which was intended to address the imbalance that had developed between spending on administrative and on student counseling and guidance services versus instructional duties. The main goal was to decrease class size in California's public schools.

In 1961, the 50% law was enacted and applied to teachers in both K-12 districts and "junior colleges." The 50% law requires that districts expend half of their current cost of education costs on instructional salaries and benefits. The 50% law is calculated each year as part of the annual CCFS-311 financial reporting to the California Community College Chancellor's Office and is audited as part of the district's annual independent audit.

II. 50% Law Calculation

There are two main components to the calculation of the 50% Law. The first component is the numerator, which is comprised of unrestricted fund instructional related salaries and benefits to include instructional aids. The second component

denominator includes the total cost of the unrestricted fund minus exempted activities otherwise known as the current cost of education.

III. Salaries of Classroom Instructors (Numerator)

The accounting of Classroom instructor salaries are governed by California Education Code Section 4362. A community college district shall allocate fifty percent of its current educational costs for the payment of classroom instructor salaries during each fiscal year." According to the definition, a classroom instructor is "...a district employee whose duties require him or her to teach district students for at least one full instructional period each school day for which the employee is employed... and whose positions require minimum qualifications."

The challenge with this definition is that unlike the K-12 system, who are in classrooms virtually all day, five days per week, community college faculty usually are not in the classroom every day and a portion of their work is accomplished outside the classroom on activities such as office hours, curriculum development and a variety of leadership activities, such as participatory governance.

Per the 2024 Community College Budget and Accounting Manual (BAM), expenditures for full or pro-rated portions of salaries of all employees in contract or regular faculty positions are tracked under object 1100 Instructional Salaries, Contract Regular or Status. Regular employee means an employee of a district who is employed in accordance with Education Code sections 87601, 87608, 87608.5, or 87609. This object also includes the following expenditures:

- Prorated salaries of contract or regular instructors working a reduced load or whose assignment includes both instructional and noninstructional duties.
 - Pro-rated 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 a part of an instructor's regular salary
- Salaries of instructors designated as temporary employees pursuant to Education Code section 87477 and overload and stipend pay for instructors designated as contract employees or as regular employees are recorded within Object 1300, Instructional Salaries, Other, or Object 1400 Noninstructional Salaries, Other, as appropriate.

Authorized duties of academic employees whose salaries are to be reported in this object account include, but are not limited to:

- Classroom instruction to students
- Preparation for and evaluation of classroom work
- Extracurricular activities that arise out of, or are extensions of, classroom work
- Duties ordinarily assigned to faculty personnel in connection with the custody and control of students in situations other than in the classroom (work experience programs or field trips)
- Intermittent duties as assigned either individually or in connection with committee work, in-service training, or institutes whose purpose is the evaluation or improvement of the educational program in the district Any release time or

additional stipends paid for coordinators, supervisors, and departmental chairs are noninstructional and recorded in Object 1200.

It is important to note that there may be faculty reassign time that fits within the instructional salary object code.

Instructional Salaries, Other are tracked under object 1300. Expenditures for the full or prorated portions of salaries of instructors who have not been designated as contract or regular employees. Included are the salaries of instructors designated as temporary employees pursuant to Education Code section 87477 and overload and stipend pay for instructors designated as contract employees or as regular employees.

IV. Salaries of Instructional Aids (Numerator)

Expenditures for the full and prorated portions of salaries paid to instructional aids (defined in Education Code 88242) who have been designated as regular employees are coded to object 2200, Instructional Aids. Overtime paid to instructional aides who have regular status is recorded within Object 2400. These expenditures must be separated into the following sub objects sub objects; Direct Instruction are expenditures for the full and prorated portions of salaries paid to employees who are (a) assigned by governing board designation the basic title of “Instructional Aide”, or any other appropriate title that denotes the employees’ duties include instructional tasks, and (b) employed to assist instructors in classroom instruction tasks during any portion of their duties (per Ed. Code, § 84362, the Fifty 50 Percent Law). Employees providing students with assistance and training in computer labs can be classified as instructional aides if they qualify under Education Code section

84362. 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 direction of an instructor. Other expenditures for instructional aids are also tracked here. Although Education Code section 88240 et seq. (and related regulations in 5 C.C.R. § 59200 et seq.), are liberal in their definition of instructional aide, the intent of Education Code section 84362 (the Fifty 50 Percent Law) restricts instructional aide salaries, that may be claimed as “salaries of classroom instructors” to salaries for the direct instruction of students. Therefore, instructional aide salaries must be segregated into those that participate in direct instruction of students and all others.

Expenditures for the full and prorated portions of salaries of instructional aides (defined in Ed. Code, § 88243) that do not have regular status as well as overtime paid to instructional aides who have regular status are tracked using object code 2400 Instructional Aids, Other. Such instructional aide salary expenditures must be separated into the following sub-objects.

Direct Instruction Expenditures for the full and prorated portions of salaries paid to employees who are (a) assigned by governing board designation the basic title of “Instructional Aide” or any other appropriate title which denotes that the employees’ duties include instructional tasks, and (b) employed to assist instructors in classroom instructional tasks during any portion of their duties (per Ed. Code, § 84362, the Fifty 50 Percent Law). Employees providing students with assistance and training in computer labs can be classified as instructional aides if they qualify under Education Code section 84362. 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 direction of an instructor.

There is other instructional aid expenses tracked here as well. Although Education Code section 88240 et seq., are liberal in their definition of instructional aide, the intent of Education Code section 84362 (the Fifty 50 Percent Law) restricts instructional aide salaries that may be claimed as “salaries of classroom instructors” to those for the direct instruction of students. Therefore, instructional aide salaries must be segregated into those that participate in the direct instruction of students and all others.

V. Instructional Benefits (Numerator)

Benefits are accounted for in object 3000. The benefits related to instructional salaries and aides should be tracked in an instructional benefit code for the purposes of the 50% law.

VI. Instructional Services Agreements (ISAs) (Numerator)

The District may engage in contracted services typically coded to a 5000 object code for instructional service arrangements with an outside agency. The outside agency establishes a partnership with a community college to obtain college-level training for its employees or members. Many of these programs are in public safety. There may be other areas where the cost of instruction is high, or it is difficult to obtain qualified instructors. For CCFS-311 reporting purposes, only the costs associated with direct instructional costs can be reclassified to a 1100 object code.

VII. Current Cost of Education (Denominator)

As per California Education Code Section 84362(c), the Current Cost of Education (CCE) is defined as the total gross expended within the general fund...for the purposes of classified in the final budget...academic salaries and employee benefits, classified salaries, books, supplies and equipment, contract services and other operating expenditures. This includes objects 1000 through 5000 in the BAM and activity codes 0100 through 6700. Equipment replacement costs are also included as object 6420. It is important to understand that equipment replacement, as defined in the BAM, is for the purchase of new equipment, or equipment of different quality or capacity or restoration of equipment (necessitated by casualty loss). Be sure to evaluate whether the equipment replacement fits this definition. If not, then it's considered capital equipment, new and is excluded for the purposes of the 50% law.

VIII. Exempted Activities (Denominator)

What can be excluded from the 50% calculation are salaries, benefits, books, supplies, equipment replacement, contracted services and other operating expenses for student transportation, food services, community services. It also includes sites, buildings, books and media and new equipment (object code 6000 in the BAM).

Restricted programs. Any amount expended from state or federal funds received for grants to community colleges or for the employment of community college

students. An example would be Federal Work Study. Also, exempted from the 50% law is the amount expended from funds received from the federal government pursuant to the “Economic Opportunity Act of 1964”.

Facility Acquisition, Construction and Lease Agreements. Additional exclusions include expenditures for facility acquisition and construction and lease agreements for plant and equipment.

Retiree benefits and retirement incentives are not included in the current cost of education.

Lottery. California general unrestricted lottery expenditures are also excluded for the purposes of the 50% law.

The following activities codes may be used to record the following object codes using unrestricted lottery revenue:

- Instructional Activities (0100-5900), Support Activities (6000-6700; 6800-7390)
 - o May be used in the following expenditures:
 1. Academic Salaries, 1000
 2. Classified Salaries, 2000
 3. Employee Benefits, 3000
 4. Supplies & Material
 - a. Software, Books, Magazines, & Periodicals
 - b. Instructional Supplies & Materials
 - i. Laptops, hotspots, internet devices

c. Non-instructional Supplies & Materials

i. Basic Needs: Food & Housing

5. Other Operating Expenses & Services

6. Capital Outlay a. Library Books

7. Equipment

a. Equipment – Additional

b. Equipment – Replacement

8. Other Outgo a. Direct Aid to Students

Student Transportation. Expenditures related to student transportation are exempted.

Rents and Leases. Any lease for plant and/or equipment is exempt.

Retiree benefits and incentives. Retiree expenses are not considered a part of the current cost of education.

Exempted Activity Codes

Per the BAM, the following activity codes are exempted for the purposes of the 50% law.

- 6810 Community Recreation
- 6820 Community Service Classes
- 6830 Community Use of Facilities
- 6840 Economic Development

➤ 6890 Other Community Services and Economic Development

- This activity is used to record expenditures associated with providing general public services to the community-at-large or to business and special groups within the community
- Applicable costs for community services include expenditures for conferences, lecture series, institutes, classes, and recreational activities, as well as the costs of providing facilities for the nonpartisan benefit of the community-at-large
- Applicable costs for Economic Development include expenditures for education and services provided to the business community to advance California's economic growth and global competitiveness

➤ 6910 Bookstores

➤ 6920 Child Development Centers

➤ 6930 Farm Operations

➤ 6940 Food Services

➤ 6950 Parking

➤ 6960 Student and Co-curricular Activities

- Expenditures for student and co-curricular activities that the district has elected to provide above and beyond the regular instructional program.
- Co-curricular activities are activities and events that are an extension of classroom instruction or related community college programs.
- Examples include the costs of such items as student newspapers, intramural athletics, intercollegiate athletics, and clubs.

- 6970 Student Housing
- 6960 Student and Co-curricular Activities
- 6990 Other Ancillary Services
- 7000 Auxiliary Operations
 - This Activity is used to record expenditures within certain operations auxiliary to the regular instructional program, such as the operation of commercial rental property for income, that portion of radio or television station operations beyond that necessary for instruction and instructional services, or certain contract education classes
 - 7010 Contract Education Expenditures to conduct contracted classes that do not generate FTES (CCR §58050).
 - Contract Education classes are distinguished from Community Service classes (6820) by their intent to exclusively serve selected clientele. Contract Education classes that generate FTES are to be reported within the applicable Instructional Activities 0100-4900
 - 7090 Other Auxiliary Operations
- 71000 Physical Property and Related Acquisitions
 - This classification is used to record expenditures for capital outlay required in developing campus facilities
 - The following are examples of expenditures that should be charged to this activity:
 - Purchase of land and buildings & initial equipping of buildings

- Construction of buildings & purchase of equipment permanently affixed to buildings
 - Modifications that improve functionality or extend the useful life of land or buildings
 - **Nonroutine** repair and maintenance of buildings and other structures (e.g., scheduled maintenance and special repair items defined under EC §84660)
 - **Upgrades** of telecommunications and information technology infrastructure
 - The portion of the salaries and benefits of district personnel related to the above expenditures should be charged to this activity (e.g., Facilities and Information Technology managers, facilities planners, and support staff)
- 7200 Long-Term Debt & Other Financing
- 7210 Long-Term Debt
 - 7220 Tax Revenue Anticipation Notes (TRANS)
 - 7290 Other Financing
- This activity is used to record expenditures for principal, interest, and other costs (e.g., service charges) associated with long-term debt and interest and other costs associated with short-term debt.
- 7300 Transfers, Student Aid, and Other Outgo
- 7310 Transfers
 - 7320 Student Aid

- 7390 Other Outgo This activity is used to record transfers, student aid, and other outgo.

Time and Effort Studies

Position responsibilities may be added or changed from time to time. It is important to routinely evaluate how positions are being coded to ensure it aligns with the actual work being performed. A good example would be if the Vice President of Student Services position oversees the athletics department, then a portion of their salary and benefits can be coded to the exempted activity code series 6900. Another example would be the Superintendent/President position. A portion of their time is dedicated to community service and economic development, which can be coded to the exempted activity series 6800. For police officers, a portion of their salaries and benefits may be related to parking enforcement. This portion can be coded to activity series 6900.

IX. Other Considerations

Self-Insurance Fund

The Self Insurance Fund is the fund that Education Code section 81602 designates to track revenue and expenses of self-insurance programs that are permitted by section 72506(d) of the Education Code. This fund, which is kept in the county treasury, is used to cover payments from self-insurance plans, and losses or payments from uninsured hazards.

This fund is outside of the general unrestricted fund. It is important to note that some expenditures tracked in the general unrestricted fund may be tracked in the self-insurance fund instead.

For example, the governing board may contract for investigative, administrative and claims adjustments services related to claims. This can be tracked in the self-insurance fund. The compensation and expenses of the attorney for services rendered to the board shall be charged to self-insurance fund. Additionally, the pro-rated portion of risk management services provided by the district can be charged to this fund.

Indirect Costs

Certain grants and programs allow for the capture of indirect costs for support services not directly tied to a particular grant or program. These indirect fees offset the costs associated for providing services such as accounting, purchasing, human resources, facilities support and information technology. Coding indirect fees as a charge to the program or grant and as an abatement to the general unrestricted fund support expenses reduces the current cost of education, which helps the 50% law compliance.

Auxiliary Support

Some districts support the custodial, grounds and building maintenance of auxiliary entities such as the bookstore, food services and foundation. The portion of maintenance, custodial and grounds may be charged to exempted activity code series 6900. The utility costs associated with the auxiliary organizations may also be charged to this code. Examples of how to charge these expenses are to use the meter if separate or a cost per square foot method.

Student Insurance

Student accident insurance can be charged to the athletics exempted activity code series 6900.

Marketing for Student Activities and Athletics

Marketing costs associated with student activities and athletics can be charged to exempted activity code series 6900. The portion of marketing personnel salary and benefits for support these activities may also be charged to exempted activity series 6900.

Athletics

The portion of support for the grounds staff to work on the athletic fields can be charged to a 6900 series exempted activity code. This would include any maintenance staff cleaning up after games and security staff.

Parking

The portion of support for maintenance staff to maintain the parking lots can be charged to exempted activity code series 6900. Additionally, any security enforcement for parking may be charged to this code as well.

Library

Books and databases are charged to object 6300.

Audit Fees

Audit fees can be booked to the funds the audit supports. For example, the Bond measure audit can be charged to the bond program. The foundation audit can be charged to the foundation office.

Legal Expenses

Legal expenses can be booked to the bond and self-insurance fund for claims for legal costs supporting these programs.

Examining Other Districts Costs Per Program

In the annual CCFS-311 report, there is an expenditure by instructional activity and noninstructional activity report for the general fund. Identify cohort districts that are similar and compare the costs per program. This may assist in determining if there are areas that require review for potential cost reduction strategies.

X. Application for Exemption of the 50% Law

The annual CCFS-311 requires reporting of the 50% law compliance. Any districts reporting deficiencies will be reported to the following Board of Governor's March meeting whether or not the District has filed an exemption. A district may request an exemption that is due September 15th following the end of the fiscal year using the CCFS-350A - Application for Exemption from the Fifty Percent Law. The application has to be reviewed and approved by the district's local governing board. The district will then be required to complete CCFS-350B – Findings of the Local Governing Board Regarding the Fifty Percent Law that is due December 1 after the fiscal year is completed. The findings must be presented and approved by the district's local governing board. Completed forms are to be sent to fiscalstandards@cccoco.edu. Thirty days prior to the board meeting, a copy of the application should be given to the faculty academic senate and faculty union representative. They have two weeks to file an objection with the Chancellor's Office and request a hearing.

The basis for exemption request is the following:

1. Serious Hardship

a. Increasing expenditures for the Salaries of Classroom Instructors would result in the district being unable to discharge financial liabilities

b. First year infusion of new moneys resulted in the inability to expend 50 percent for the Salaries of Classroom Instructors

c. Unanticipated, unbudgeted, and necessary expenditures resulted in the inability to expend 50 percent for the Salaries of Classroom Instructors. To the extent that unanticipated, unbudgeted, and necessary expenditures resulted in the district's inability to comply with the requirements of Education Code Section 84362, the district may request an exemption. For example, such expenditures may include expenditures resulting from arbitration or litigation; replacement or repair of utility services; an abnormal increase in the cost of energy, insurance, or security; or a cost increase mandated by State or federal law. The list of expenditures must accompany this exemption request.

d. The district has expended funds pursuant to CCR title 5, section 59213(f)

If the exemption request is based on serious hardship, the district must document and support its request for exemption by providing answer to the following questions:

- What is the net ending balance of unrestricted general funds reported on CCFS 311 for the fiscal year for which an exemption is requested?

- Are there noncash assets included in this ending balance? If so, what is the amount of noncash assets in the unrestricted general fund ending balance?
- If the district has a reserve fund in addition to the net ending balance, what is the amount of this reserve?
- How many full-time equivalent students (FTES) did the district report for the year for which an exemption is requested?
- What would have been the consequence to the district of expending the amount of the deficiency on Salaries of Classroom Instructors? (Provide details of the number and classifications of staff and/or the type of operating expenses that would have been redirected to Salaries of Classroom Instructors. Provide a listing of the tasks and functions the district would have been unable to perform because of redirecting funds to Salaries of Classroom Instructors.)

2. District pays Salaries of Classroom Instructors higher than cohort per CCR title 5, section 59204(e)

A district cannot be required to pay Salaries of Classroom Instructors above those paid by its cohort. This cohort is determined using CCR title 5 section 59204(e): 1) cohort includes only districts meeting the Fifty Percent law; 2) districts with Current Expense of Education per FTES within \$250 of district seeking exemption; 3) number of FTES within 30% of district seeking exemption; 4) if necessary, to identify 5 districts, increase the Current Expense of Education per FTES by \$50 increments and number of FTES by 5% increments. The average

of the Salaries of Classroom Instructors per FTES (SCI/FTES) of the 5 districts in the cohort is compared with the SCI/FTES of the district seeking exemption. Any difference between the two is then multiplied by the FTES for the district seeking the exemption. The possible outcomes for this comparison are:

- District A has a \$150,000 deficiency and pays SCI/FTES \$50,000 above cohort average. The district cannot be required to pay the \$150,000 deficiency in faculty salaries because that would result in the district paying salaries higher than the cohort salaries: \$50,000 above the average SCI/FTES of cohort plus an additional \$100,000. Therefore, this district is eligible for a \$150,000 exemption under the comparable salary justification, if the district applies for it.
- District B has a \$20,000 deficiency and pays SCI/FTES \$50,000 above cohort average. District B is paying \$30,000 more in comparable salaries than its deficiency and would be eligible for a full exemption under the comparable salary justification, if the district applies for it.
- District C has a \$100,000 deficiency and pays SCI/FTES \$25,000 below cohort average. The district would be eligible for an exemption for the deficiency amount remaining after it expended the cohort average amount: \$25,000 would be unexempted and \$75,000 would be exempted, if the district applies for it.
- District D has a \$25,000 deficiency and pays SCI/FTES \$50,000 below cohort average. This district would not be eligible for an exemption under this category even if it applies for it. However, this district could apply for an exemption under one or more of the 'serious hardship' categories.

Districts with a deficiency that is not entirely exempted by the Board of Governors are subject to CCR title 5 section 59213. This section specifies that districts submit a plan, by June 30 of the current fiscal year, projecting how the amount of the unexempted deficiency will be expended timely for Salaries of Classroom Instructors. This plan may include an agreement with faculty specified in paragraph (f) which allows expenditures to be counted in the numerator that are not normally counted in the numerator. The plan can include instructional salary increases, adding instructors, adding additional instructional aids, conversion of part-time faculty to full-time faculty, etc.

The amount of the unexempted deficiency will be held in the district's County Treasury until this plan is received or the district retires the entire deficiency. The Chancellor's Office recommends to the Board of Governors no later than March 1 one of the following:

1. The Board of Governors denies the application
2. The Board of Governors grants the application
3. The Board of Governors grants the application in part

XI. Penalties for Not Meeting 50% Law Compliance

Per CCR title 5 section 59214, if the district fails to comply with Education Code Section 84362 within two years following the year for which exemption is being sought, an amount equal to the nonexempt amount or the amount by which the district failed to comply (whichever is less) shall be deducted from apportionments made to the district on a one-time basis during the third year following the year of the deficiency.

References

2024 California Community College Budget and Accounting Manual,

<https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/College-Finance-and-Facilities-Planning/Fiscal-Standards-and-Accountability-Unit/Manuals>

California Community College Chancellor's Office Fifty Percent Law,

<https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/College-Finance-and-Facilities-Planning/Fiscal-Standards-and-Accountability-Unit/Fifty-Percent-Law>

Proposition 20 Lottery Frequently Asked Questions, [https://www.cccco.edu/-/media/CCCCO-Website/docs/faq/Proposition-20-Lottery-Frequently-Asked-Questions-Updated-](https://www.cccco.edu/-/media/CCCCO-Website/docs/faq/Proposition-20-Lottery-Frequently-Asked-Questions-Updated-082724.pdf?la=en&hash=1F2D3237C7A64F3EEA19976FE3F975B4C44B17FD)

[082724.pdf?la=en&hash=1F2D3237C7A64F3EEA19976FE3F975B4C44B17FD](https://www.cccco.edu/-/media/CCCCO-Website/docs/faq/Proposition-20-Lottery-Frequently-Asked-Questions-Updated-082724.pdf?la=en&hash=1F2D3237C7A64F3EEA19976FE3F975B4C44B17FD)

California Education Code 84362, <https://codes.findlaw.com/ca/education-code/edc-sect-84362/>