Forum: Two Views on Education's 50 Per Cent Law

One of the more complex and misunderstood statutes governing community college finance in California is the so-called "50 per cent law." The statute is simple on its face – it merely requires that 50 per cent of the "current expense of education" be allocated to the salaries of "classroom instructors." The complexity arises mostly from interpreting what the statute seems to require be included in the two expense categories *before* the calculation is made. (A similar law governs K-12 districts; there, however, the percentage figure is 55 per cent.)

Surprisingly, since some version of it has been on the books for well over a hundred years, the statute and its interpretation have apparently never been the central focus of a decision by a court of law. Those few lawsuits which have been filed have either been dropped or settled outside the courtroom. That is still the case.

However, the recent settlement of a lawsuit arising in the Marin Community College District certainly enjoys the distinction of having the longest life and coming the closest to an actual trial. Attorneys for the parties devoted hundreds of hours to the litigation and generated an awesome quantity of legal documentation on behalf of their respective positions. The United Professors of Marin (AFT, AFL-CIO) was seeking to prove that the district had unlawfully failed to comply with the statute; the district was seeking to prove otherwise. Settlement came in the judge's chambers on the day the trial was to start.

In an effort to provide our readers with an overview of the many issues involved, *CPER* invited the principal attorneys for each side to offer some thoughts on the law itself as well as on the litigation and consequent settlement. Their comments will continue to have relevance. Litigation in other districts over the issue is expected, but, perhaps more importantly, UPM is continuing litigation (actually a part of its original lawsuit) against the Board of Governors of the California Community Colleges and the Chancellor's office regarding how the law is interpreted and enforced statewide. – *Dave Bowen*

THE 50 PER CENT LAW: TIME FOR ENFORCEMENT

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In 1851, just one year after California became a state, the Legislature enacted a statute which required that 60 per cent of the state's funds granted to public schools be spent on teachers' salaries. One hundred and thirty-four years later a modified version of that early statute is still the law. Education Code Sec. 84362, also referred to as the "50 per cent Law," embodies today a strong public policy in favor of public education. The law basically requires that community college districts expend 50 per cent of their "current operating expenses" (called in the statute the "Current Expense of Education" or "CEE" for short) on the salaries of "classroom instructors." A similar statute governing K-12 schools, Education Code Sec. 41372, enforces a 55 per cent requirement.

As will be discussed, the primary purposes of the law have been officially determined to be to increase teachers' salaries, reduce class size, and control noninstructional costs.* The law

*See, e.g., *Report of the Senate Factfinding Committee on Governmental Administration* (1959), pp. 9-34; memorandum to Board of Governors from Assistant Chancellor Archie McPherran, 7-22-77.

does not dictate the specific amount of money a district must pay particular teachers. Instead, it dictates that half of a determined sum be spent on instructional salaries. A district in danger of noncompliance can come into compliance by raising salaries, reducing noninstructional costs, reducing class size (thereby hiring more instructors), or by hiring more full-time than part-time teachers.

Despite its long history not a single appellate case has ever interpreted the statute, and until 1979, to our knowledge, not a single lawsuit had ever been brought to enforce or clarify it. In 1979, the United Professors of Marin, CFT/AFT, AFL-CIO (referred to here as UPM) brought the first lawsuit to enforce the law against the Marin Community College District (Marin County Sup. Ct. No. 95857). A year later, the lawsuit was amended to include as defendants the Board of Governors and Chancellor of the California Community Colleges (referred to herein for convenience as the "state"), agencies which have responsibility for enforcing the law. UPM asserted that these agencies were subverting the requirements and intent of the statute.

After five years of pre-trial discovery and motions, the trial opened in April 1985 in Marin County. Each party filed hundreds of pages of exhibits, testimony, and briefs, and the oral testimony of numerous witnesses was scheduled. As the trial started, settlement discussions began with the assistance of Marin County Superior Court Judge Beverly Savitt. Three days later UPM and the district read into the court's record a detailed verbal settlement to which they had agreed, and subsequently a written settlement was filed with the court on July 7, 1985. No settlement was reached with the state defendants, and it is anticipated that the action against them will proceed to trial within a year.

The purpose of this article is to describe the 50 per cent law and the controversy regarding it, and to examine some of the facts and issues which arose in connection with the *Marin* case and the settlement which came out of it. (Since the case against the state defendants is still in litigation, these comments may raise far more questions than they answer. Furthermore, the litigation raised many other issues which aren't discussed because of space limitations.)

It must be said that, in part at least, the UPM litigation was prompted by the complexity of the 50 per cent law (which runs to nearly 600 words). The meaning of "current expense of education" and "classroom instructors," as well as numerous other terms, is not entirely clear on the face of the statute. Thus, understanding it not only requires several close readings but familiarity with the law's special terminology, to which we now turn.

Salaries of Classroom Instructors

The definition that should be given to "salaries of classroom instructors" is occasionally obvious and at other times uncertain. Ordinarily, the salaries of counselors and librarians may not be counted as those of classroom instructors since these employees generally do not teach. But if part of their time is spent in instruction (for instance, a librarian teaching a class in bibliography), then the percentage of salary which is equivalent to instructional responsibility may be included as teachers' salaries.

It is when one considers "instructional aides" that the meaning becomes particularly cloudy. First, to be counted as an instructional aide one must perform instructional duties. But what is an instructional duty? Is an audio-visual technician who sets up projectors performing an instructional duty? Is a lab technician who orders supplies and routinely sets up experiments with little or no faculty supervision? The 50 per cent law does not define instructional aides, so looking there will not help. However, Education Code Sec. 88243 does provide a definition: "Instructional Aide means a person employed to assist classroom instructors. . .in the performance of

their duties and in the supervision of students and in instructional tasks which, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom instructor."

Although Sec. 88243 limits an "aide" to one "who assists" an instructor in performing "instructional tasks" and in supervising students, the term "instructional task" is not defined. Are such tasks to be defined by the established practice within the district or by some other measure?

The definition of a "classroom instructor" also requires that the instructional aide perform his or her duties under the "supervision" of a classroom instructor. The word "supervision" is not defined in the 50 per cent law, but the statute states that the term "salaries of classroom instructors" shall have the same meaning as prescribed by E.C. Sec. 84031. Sec. 84031 also does not define "supervision," but it does define "supervisor," using language which closely parallels the definition in the Educational Employment Relations Act. Thus, should the more stringent definition of "supervisor" contained in EERA be the guide, or, as the district contended, should "supervision" mean something akin to the professional guidance faculty often offer to noninstructional personnel?

In any event, the decision which a community college initially makes as to who qualifies as an "instructional aide" can have a substantial effect upon the amount of salary paid to the district's certificated employees. In Marin, for instance, during an eight-year period from 1976-77 through 1983-84, the district claimed that it had expended nearly $3 million on the salaries of aides. Each year the district employed approximately 20 to 30 full-time aides and a number of part-time aides. If any of these employees were improperly categorized, then the district's certificated faculty did not receive the compensation to which they were entitled.

Current Expense of Education

The second critical definition in the statute is the "current expense of education," a term which appears elsewhere only in the regulations adopted by the state to implement the statute. The 310-word definition is packed into two enormous sentences which come close to defying comprehension. (One who surmises that a definition such as this provides ample room for litigation is not far off the mark.)

The statutory definition refers cryptically to "new equipment (object of expenditure 6000 of the Accounting Manual for California community colleges)." To figure out what this definition means, one must first locate the Accounting Manual, a document which is neither a best-seller nor likely to be found at most libraries. A good educational detective would soon learn that there are various versions of the manual, the most recent being issued by the Chancellor's Office in 1978 and 1983. However, the 1983 version must be approved by the California Office of Administrative Law of the General Services Administration, and approval had not occurred by April 1985. The "6000" reference is to the manual's coding system for various financial "accounts." Section 6000 refers to capital outlay expenditures and the manual spends two pages trying to explain what capital outlay means. The brief statutory language includes:

> Improvement of new and old sites and adjacent ways. . .record expenditures for initial and additional items of equipment. . . . Piece-for-piece replacements of equipment are reported in classification 4800, Equipment Replacements.

To translate this into plain English, capital expenditures (whatever they are) are excluded from CEE. Purchases of "new" additional equipment are also excluded, but expenditures for "replacement equipment" are included. Deciding what is a capital expenditure, or what constitutes new, additional, or replacement equipment, are painstaking tasks. If the district had an "old"

piece of property and built a building on it, then presumably this would qualify as a capital expenditure. But if the district utilized its own classified personnel to build the building, could the district exclude the salaries of these classified employees from CEE?

In Marin, the district categorized the salaries of classified maintenance personnel as capital expenditures and excluded their salaries from CEE. Over a period of seven years, the expenditures totalled nearly a *million dollars* in classified salaries. UPM vigorously objected to what it viewed as rather creative, but impermissible accounting, arguing that this money should have been included within CEE. The district defended its practice, claiming that maintenance employees who were constructing, maintaining, or repairing buildings were improving the life expectancy of the district's physical facilities, thereby entitling the district to account for these costs as capital expenditures. UPM countered by arguing, among other things, that Sec. 84362 specifically states that all classified salaries must be included in CEE. (As will be explained later, the UPM settlement prohibits the district from accounting for classified salaries in this manner.)

The "new, additional and replacement" equipment issue is an area where accounting abuses might easily occur. Since replacement equipment is accounted for in CEE and new equipment is not, the distinction is critical. Yet the purchasing processes of many community colleges typically do not record whether a particular purchase is a "replacement" or is "new." Any system that does not identify "replacement" equipment at the time the equipment is purchased could result in significant sums being excluded from CEE. Determining whether an equipment purchase is new, additional, or replacement would seem to require guidance, but little clarification has come from the Chancellor's Office.

In Marin, the district replaced over a period of years much of its motor vehicle fleet. UPM argued that these vehicle purchases, which approached $500,000, should have been included within CEE. The district defended the exclusion. For one thing it argued that one of the newly purchased vehicles was assigned to the district's Chancellor, and since previous district Chancellors did not have assigned vehicles, the newly purchased one was not a "replacement." UPM was skeptical of this accounting, but it illustrates the difficulty posed by the lack of specific guidelines. Another example: The district disposed of its old computer system and purchased a new one which cost nearly a million dollars. UPM argued that this was a "replacement." Since the new computer system could perform functions that the old system could not, the district classified it as "new" equipment. The Chancellor's Office has never suggested any apportioning of costs, so the determination seemed to be an "all or nothing" decision. Should Marin's computer costs be included in or excluded from CEE?

A community college district bent on noncompliance with the law could easily adjust a few figures in the CEE area in order to make it appear to be in compliance. The 1983 Accounting Manual is hardly a salvation. It defines new equipment as equipment of a "different quality or capacity." Such a definition may well swallow any distinction between new and replacement equipment. As technology usually enhances virtually every piece of equipment, it is rare indeed to find a product which is not in some way of a different "quality or capacity." For example, an IBM Selectric III typewriter may well be superior to a Selectric II because it is quieter or has an extra key or two. Should the purchase of a Selectric III qualify as "new" equipment because it is a slightly improved version of its predecessor, or should the purchase be included within CEE because the employee using the machine uses it for exactly the same purposes and in the same manner as its predecessor?

Unfortunately, no answer to these questions is found within any regulations, guidelines, or memoranda issued by the Chancellor's Office.

The Statute in Operation

The statute's operation can best be understood according to a three-year cycle. In Year One, the district's expenditures are made. In Year Two, the district calculates, on forms provided by the state, whether it has expended 50 per cent of the district's CEE during that year for payment of salaries of classroom instructors. If the district has not done so, then apportionments made to the district by the state equal to the apparent deficiency are deposited in the county treasury to the credit of the district during the succeeding school year and are "unavailable for expenditure by the district" until the Board of Governors has considered any applications for exemption which may have been filed by the district. If no application is filed, or if an application is denied, then the Board is required by the statute to order the "designated amount" which has not been exempted to be added to the "normal amount" to be expended for salaries of classroom instructors during the next fiscal year. What, you might ask, does this all mean? Once again, the answer is best considered by reviewing one possible scenario. Let us suppose that in Year One, the district fails by $300,000 to expend 50 per cent of CEE for instructors' salaries. In Year Two, the district does not obtain an exemption from the law. In Year Three, the district must spend 50 per cent of CEE for instructors' salaries, as well as an additional $300,000 representing the prior deficiency. (In fact, there are other possible interpretations of the statutory requirement, but to explain those would require considerably more space than is available here.)

The Board of Governors is authorized to grant exemptions provided that payment of deficiency monies would result (1) in a serious hardship to the district, or (2) in the payment of salaries of classroom instructors "in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions." This exemption process has been a major subject of the litigation between UPM and the state. UPM has argued that the state, through flawed interpretations and lack of enforcement, has substantially undermined the objectives of the law to the detriment of faculty in virtually every community college district in the state.

The primary subjects at issue include retroactive carry-over deficiencies, exemption procedures, investigation procedures (including accounting for CEE expenditures and teachers' salaries), and enforcement procedures.

Retroactive Carry-Over Deficiencies

The area of retroactive carry-over deficiencies is one in which the state seems to have seriously undermined the law. In Marin, the district failed to expend 50 per cent of CEE for teachers' salaries during four of the five fiscal years between 1975 and 1980. During the 1975-76 fiscal year, the district's deficiency was nearly $40,000, according to figures it reported to the state. In each of the 1977-78, 1978-79, and 1979-80 fiscal years, the district's deficiency amounted to nearly $300,000. (UPM contended that in each of these years, the actual amount of the deficiency was substantially greater due to improper accounting procedures utilized by the district.)

The district did not seek an exemption from the law for the 1975-76 deficiency and was therefore ordered to pay the $40,000 during the 1977-78 fiscal year. For its 1977-78 deficiency the district initially applied for but later withdrew an application for exemption. The district was ordered to pay this new deficiency as well as the earlier deficiency during the 1979-80 fiscal year. But in September 1980, the district filed with the Board of Governors a request for an exemption of approximately $600,000. This request included the "carry-over" of the two prior deficiencies which had never been made up by the district.

UPM opposed the exemption application on several grounds, but it was nevertheless recommended by the Chancellor's Office and ultimately approved by the Board of Governors. UPM

learned that the Board has in the past 10 years granted nearly $12 million in exemptions from the law, of which nearly $4 million may include carry-over deficiencies. UPM challenged the prior year deficiency exemption procedure on the ground that it violated the statute, arguing that exemptions could be sought only for the year immediately preceding the exemption application. If carry-over exemptions were permitted, then the exemption procedure would become a sham. A district could focus its resources on noninstructional costs (administrative salaries, physical facilities, etc.), and in the process deliberately create a situation in which paying off accumulated deficiencies would in fact create a hardship. A district could also flout the law by waiting to seek retroactive exemption until immediately after, in one particular year, it had paid "comparable" salaries.

In fact, it is a real weakness of the statute that districts can continue to seek exemptions from the law despite abysmal records of noncompliance. During the 20-year period from 1961 through 1980, 20 of the state's districts violated the law at least three consecutive years. Fremont-Newark did not comply with the law for 13 straight years. The West Kern Community College did not expend 50 per cent of CEE on salaries of classroom instructors for 12 out of 13 years. Santa Clarita violated the law for 10 out of 13 years and Compton violated the law for 7 years. Denying districts the right to seek exemptions for repeated abuses would be a significant improvement in the statute.

Enforcment Procedures, Investigations, and Exemptions

The 50 per cent law authorizes the state to adopt, in its discretion, certain procedures for implementing the law, and it also mandates that certain procedures be used. UPM has charged that the procedures adopted by the state conflict with the statutory purpose and are therefore an abuse of the state's discretion.

Disputed figures and audits. If there is a dispute between a faculty organization and a district over the actual amount of a deficiency, the procedure is heavily biased in favor of the district. There is no adversarial or factfinding proceeding in which the district's figures or personnel can be subjected to cross-examination in order to ferret out the truth. The statute simply requires a public "hearing" before the district's governing board and typically this means a five-minute opportunity for opponents of an exemption request to make a public objection. The same type of "hearing" also occurs before the state's Board of Governors, except that the board is not as accessible and its procedures do not guarantee faculty organizations a right to appear and argue against the granting of exemption applications.

The state makes no effort to audit figures provided by districts. Indeed, the state has historically claimed that it lacks the authority to require such audits even though the 50 per cent law specifically states that the Board of Governors shall enforce the statute and "may adopt necessary rules and regulations to that end." The statute also dictates that the state may require districts to submit during the school year "such reports and information as may be necessary to carry out the provisions" of the statute. No doubt the state feels it lacks the resources to audit and enforce the law. Also, the state has claimed on some occasions that there already exists an "independent audit" of district compliance, but this is an "audit" paid for by the district which is performed by auditing firms selected by the district. UPM's review of district-initiated audits revealed that the audits were typically not designed to analyze those areas (noted above) where abuses of the law are most likely to occur. Indeed, it is questionable whether auditors unfamiliar with the 50 per cent law could adequately uncover the sort of improper practices which faculty organizations suspect are common around the state.

Errors in accounting for personnel. In Marin, UPM claimed that maintenance personnel, library aides, counseling aides, and individuals who were supervised and directed solely and exclusively by non-classroom teachers were nevertheless repeatedly counted as "classroom teachers." During each of the years in question, the district submitted the required accounting reports to the state. No review of these documents could possibly reveal suspected abuses because the forms required by the state do not seek the information necessary to test for them.

Improperly inflating the CEE. With respect to the current expense of education, the state apparently never uncovered the fact that for several years Marin had excluded classified maintenance salaries from CEE by paying these employees out of a special reserve fund which had been created for capital outlay expenditures. Of course, even if the state had learned about this practice it is unlikely it would have taken any action since it appears to condone the practice.

The question of "supervision" of an instructional aide by a classroom teacher is another issue which has not captured the attention of the state. The state conducts no investigation nor does it seek any information to determine if districts are only including within the "salaries of classroom teachers" those instructional aides who are under the direct supervision of classroom teachers. In Marin, UPM's evidence showed that several "aides" reported directly to non-teaching supervisory and managerial personnel for all purposes, and were not directed in any respect by classroom teachers.

No administrative record prepared. Challenging a district's lack of compliance with the 50 per cent law is tough. Without an evidentiary hearing, a faculty organization can only demand information, interview willing witnesses, or bring a lawsuit and commence a protracted and expensive discovery process. This is in sharp contrast to the procedures which districts must utilize to lay off regular faculty. Those procedures result in quasi-judicial administrative hearings in which evidence is ascertained and all parties have a right of cross-examination. Without an administrative hearing procedure, faculty organizations may spend thousands of hours and thousands of dollars attempting to ascertain information which could probably be obtained in a fraction of the time in an administrative hearing process in which the organizations could subpoena relevant information or individals.

Grounds for exemptions. Districts may obtain exemptions from 50 per cent law deficiencies if they can establish to the satisfaction of the Board of Governors that they are already paying salaries in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions. It is in the area of comparability that UPM is especially critical of the exemption process. The issues can only briefly be stated here.

When the Board of Governors decided in 1980 that Marin was paying salaries in excess of those in "comparable districts," the state decided that the district most comparable to Marin for purposes of salary comparison was the Yosemite Community College District. How the state reached this conclusion has been the subject of hundreds of pages of briefs, declarations and exhibits in the UPM litigation. In essence, UPM asserted that the state had, over a period of years, eliminated most criteria of comparability which measured district expenditures in noninstructional areas and was emphasizing criteria which ignored the 50 per cent law's goal of controlling noninstructional costs and increasing teachers' salaries.

UPM also challenged the state's use of instructional costs per ADA, instead of average teachers' salaries, as a method of comparison. A district with low full-time certificated salaries could be deemed equivalent to a district with high full-time certificated salaries if the low-salary district employed large numbers of part-time employees and the high-salary district did not. UPM argued, in part, that this was one of the reasons the state wrongly found Marin to be "most comparable" to Yosemite.

The Impact and Future of the 50 Per Cent Law

Many critics of the 50 per cent law complain that it is archaic, complex, and difficult to understand. There is little doubt, however, that the law has been violated repeatedly. In a January 19, 1981, report to the Legislature, Chancellor Gerald C. Hayward of the State Community Colleges said that

> During the 20 years since 1961, 46 different community college districts have failed to satisfy the requirements of the 50 per cent Law during at least one fiscal year. The number of districts that have failed to comply in any given fiscal year have ranged from 5 in 1972-73 to 13 in both 1976-77 and in 1977-78.

Yet because the statute has been frequently violated is no reason to repeal it. Instead, it is a reason to enforce it. Although the law has been amended more than 25 times in the last 134 years, its purpose has nevertheless remained constant: that noninstructional costs be controlled, that class size be reduced, and that teachers' salaries be increased. During the last 25 years, the Legislature has on several occasions conducted studies of the law. These studies appear to reaffirm the Legislature's intention that a goal of the statute is to increase teachers' salaries. UPM has claimed in its litigation that, at least since 1976, improper cost accounting and a lack of enforcement by the state, the Chancellor's Office, and the Board of Governors have led to the law being largely ignored. Since 1976 the Chancellor's Office has not brought a single action in court to enforce the law, nor has it ever designated a single individual or a sole sub-unit of its office to monitor and enforce the statute. Despite numerous interpretation questions, the skimpy regulations promulgated by the Chancellor's Office to "enforce" the law do not address the issues identified in the UPM litigation. It is hardly surprising then that Chancellor Hayward stated in his 1981 Report that the "incentive for a district to obtain compliance with the 50 per cent Law is weak."

Thus, it is left to faculty organizations to enforce the law, but enforcement is not an easy task. First, there are no judicial precedents at the appellate level on which to rely. Second, anyone intent on pursuing an action to enforce this statute is immediately confronted with an enormous mountain of material which must be examined, analyzed, and summarized in an effective fashion. Although the information necessary to investigate a district's compliance with the law is generally available pursuant to requests made under the California Public Records Act and EERA, reviewing and understanding the material obtained takes a very long time. Certainly these factors explain the paucity of lawsuits dealing with the subject.

It is apparent that the law is not necessarily a favorite of many community college districts, perhaps even the Chancellor's Office. In his 1981 Report, the Chancellor wrote:

> In concluding this report, the Chancellor, on behalf of the Board of Governors, believes that the purposes of the 50 per cent Law need to be re-considered and re-defined. Although the 50 per cent Law has generated very strong opinions, both in support and in opposition to the statute, it is not clear what purpose the 50 per cent Law serves today.

Faculty organizations do not share the Chancellor's viewpoint. If districts were forced to comply with the purposes of the law, it is likely that class size would decrease, teachers' salaries would increase, and districts would be required, out of necessity, to cut administrative waste. Management interests assert that EERA makes the statute unnecessary since faculty organizations can simply negotiate for salary increases. This argument ignores the fact that the need for the law exists today more than ever. The law merely guarantees that on a statewide basis the California community colleges will commit, at a minimum, 50 per cent of their current budgets to instruction. The imposition of uniform statewide standards in the field of education is hardly earthshaking. Uniform standards exist to cover all sorts of things, from basic funding questions to teacher dismissal procedures.

The Carnegie Foundation for the Advancement of Teaching has asserted that teaching "is in crisis" in this country (*The Condition of Teaching: A State-by-State Analysis*, 1983). The crisis "relates directly to the fact that the best and brightest are definitely not choosing education." The 1984 *Final Report of the Study Group on the Conditions of Excellence in American Higher Education*, commissioned by the National Institute of Education, states that college and university faculties have lost approximately 20 per cent of their purchasing power in the past decade. The report notes that the proportion of entering freshmen intending to pursue careers as college professors dropped from 1.8 per cent in 1966 to 0.2 per cent in 1982. Although California appears to compare favorably with the rest of the country in community college faculty salary levels, it is still true that the buying power of the state's community college teachers' salaries have dropped by 20 per cent over the period from 1973 to 1983 (according to a report issued by Chancellor Hayward in February 1985). The 50 per cent law is a bulwark against this erosion. It provides some assurance, minimal though it is, that college administrations will not lose sight of their primary purpose: instruction. At a minimum, the law prevents a district from lavishing money on unnecessary administrative overhead.

How should more stringent enforcement be accomplished? Strengthening the control of the State Chancellor's Office over enforcement would not seem advisable, given its lukewarm attitude toward the 50 per cent law. For the present it is best to leave enforcement to faculty organizations. However, there are a number of improvements that could be made: (1) The Legislature should cease the exclusion of further expenses from CEE. The changes during the last 20 years have sufficiently diluted the purposes of the statute. (2) The regulations adopted by the Chancellor's Office could be amended to provide for administrative factfinding hearings at the district level when a district is considering an exemption, or when a faculty organization asserts that it has evidence of noncompliance. (3) The Chancellor's regulations could clearly address some of the ambiguities discussed above, such as the definitions of "instructional aide" and "supervision" and what is or is not included in CEE. (4) The Chancellor's Office could provide clear manuals so that outside auditors or auditors employed by the Chancellor's Office could better perform their function. (5) The Chancellor's Office could require community college districts to adopt revised accounting procedures and begin reporting more useful and detailed information concerning the names of instructional aides, their job titles, their duties, and their supervisors.

The Marin Settlement

The settlement achieved in Marin dealt with many of the above issues, and for the present is the only "model" of a 50 per cent law settlement. A brief summary of its provisions and their significance would include the following:

- The district's salary schedules for certificated employees were increased by $750,000 for the 1984-85 academic year.
- The district's certificated salary schedules were restructured to eliminate several steps and allocate money across the schedules so as to raise salary levels and classifications which were, in UPM's view, disproportionately low compared to similarly situated faculty in other community college districts.
- Back pay of nearly $500,000 was granted to faculty for the period November 15, 1984, through July 1, 1985, based on the restructured salary schedule.
- Back pay of $150,000 was obtained for certificated employees who retired during the litigation.
- Litigation expenses of $100,000 were recovered.
- There was an agreement that the district would comply with the law and not seek exemptions from the law during the next six years.
- The district agreed that during the duration of the six-year agreement, classified salaries shall not be excluded from the current expense of education.

- Various restrictions were placed on the exclusion of construction salaries and contracted service costs from CEE.
- Certain classifications will not be counted as instructional aides, including audio-visual technicians, electronics technicians, music librarians, tutorial coordinators, equipment managers, secretarial employees, counseling aides, and other categories.
- The district agreed to issue quarterly reports to UPM regarding its compliance with the law, and to provide UPM with a variety of accounting documents and other materials so that UPM can monitor various areas of district compliance, including capital outlay expenditures.
- Procedures will be adopted to insure that all employees are correctly accounted for in connection with the law, and the district must provide UPM with an annual report of all permanent classified employees charged as instructional aides, identifying their supervisors, their job descriptions, and other pertinent data.
- The parties agreed to adopt a procedure to resolve any disputes about compliance with the agreement. A neutral, court-appointed referee is empowered to review allegations of noncompliance, with the court retaining jurisdiction to review any recommendations of the referee.

Conclusion

The comprehensive agreement outlined above is viewed by UPM and other faculty groups as an important first step toward enforcing a law designed to reduce class size, to hold static or decrease the number of noninstructional personnel in the public schools, and to increase the salaries of classroom teachers. These are important goals which are far too often ignored.

UPM and other faculty organizations may be expected to continue to pursue their efforts to see that this important statute is fully enforced in the upcoming years. If these organizations succeed, they will vindicate the foresight of those legislators who 134 years ago saw fit to enact a statute which is as necessary today as it no doubt was in the early days of education in California.