

DISTRICT BUDGETING

District must stop violating “50% Law”

State law requires at least half of budget be spent on classroom instruction

By Robert J. Bezemek, AFT 1493 Attorney

Since the 1970s, it has been rare for community college districts not to fulfill the requirements of the “50% Law”. I am aware of just three lawsuits that were needed to enforce the law, two of which I filed. When any district has failed to meet its requirements in a given year, they have almost always made up their deficiency as the statute requires. San Mateo is on the cusp of deliberately disregarding its legal obligations.

San Mateo only district in state that did not meet 50% requirement in 2015-16

Perhaps the limited number of legal actions is because most districts are able to comply with the law. In 2015-2016, when the San Mateo District was “significantly deficient” in complying with the law, every other California community college district fulfilled its legal obligation to expend at least 50% of the “current expense of education” for “salaries of classroom teachers” according to State figures.

I thus read with interest Chancellor Galatolo’s comment in the February *Advocate*, claiming the law is “antiquated”, “disadvantages students,” is “arbitrary,” was “developed in 1958.” Um. Wrong, wrong, wrong, wrong.

History of the 50% law

Let’s begin with the development of the 50% law. The Chancellor was only off by 107 years. California was admitted to the Union on September 9, 1850. The California public school “system” really wasn’t much in 1851 - it wasn’t yet a system and had no community colleges - but by spring 1851 the California legislature was already concerned enough with school administrators short changing teachers and students, and spending excessively on administration, that they adopted “An Act concerning Common Schools and Public Instruction.” As it read on May 1, 1851,

“Not less than sixty percent of the amount paid each District shall be expended in Teachers’ wages, the balance may, at the discretion of the District, be expended in building or repairing School-houses, purchasing a library or apparatus, or for the support of a High School.”

From 1851 until now it has been amended, revised and refined more than 50 times. In 1929, for

instance, the law was added to the “School Code,” the forerunner of the modern Education Code, which was enacted in 1943. In 1949 the State first recognized grounds for legitimate “exceptions” to the Law’s requirements. In the 1950s and 1960s, after extensive study, the Legislature reaffirmed the necessity of the law. In the 1970s, numerous changes were made to better define the law’s terminology. In 1976 the Education Code was revised to create a separate “community college” section, and since then the

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WORKLOAD COMMITTEE REPORT

Full-timers: Complete the Workload Survey

Adjuncts: Be sure you’re paid for non-teaching work

Full-time faculty should already have received the SMCCD Workload Survey (3/12) and friendly reminders about the importance of completing it. AFT also wants to stress the importance of collecting accurate and thorough data about faculty workload in order to make strides toward greater workload equity and a healthier work/life balance for all faculty.

Adjunct faculty should be paid for non-teaching work

An interesting byproduct of the Workload Committee was a January 29 email from Human Resources to all Deans, reminding them that, except in rare cases, adjunct faculty should be paid for any non-teaching work they do. This information may be news to some adjunct faculty. If adjunct faculty are doing work outside the scope of teaching their classes and holding office hours, they should speak to their Deans about being compensated, or speak to an AFT representative.

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AFT 1493 Part-Time Faculty Appreciation Celebration

**Skyline College – Thursday, April 12
Drop in between 1:00 - 6:30**

**Multicultural Center,
Building Four, Hosting Gallery**

Pizza, prizes, collegiality & union solidarity.

Discuss adjunct issues. Tell us your concerns. Ask us questions.

**Come have your lunch, snack or dinner with us.
We want to thank all our part-time faculty members
for their hard work and dedication to our students.**

**AFT members will soon receive an email
message with an AFT 1493 nomination form.**

**Nominate a colleague or yourself to join the
AFT 1493 leadership team.**

**AFT 1493 Executive Committee /
General Membership Meeting**

**Wednesday, April 11, 2:15 p.m.
Cañada College, Building 3, Room 104**

The Advocate

The Advocate provides a forum for faculty to express their views, opinions and analyses on topics and issues related to faculty rights and working conditions, as well as education theory and practice, and the impact of contemporary political and social issues on higher education.

Some entries are written and submitted individually, while others are collaborative efforts. All faculty are encouraged to contribute.

The Advocate's editorial staff, along with the entire AFT 1493 Executive Committee, works to ensure that statements of fact are accurate. We recognize, respect, and support the right of faculty to freely and openly share their views without the threat of censorship.

AFT 1493 discourages full-timers from taking on excessive overload

The following resolution was passed at the December 6, 2017 AFT 1493 Executive Committee meeting:

Whereas economic instability affects the employment status and livelihoods of part-time faculty in the SMCCCD,

Be it resolved, that the AFT 1493 Executive Committee recommend that full-time faculty members **seriously consider refraining from taking on excessive overload in situations where part-time faculty will be displaced from courses to which they would have otherwise been assigned.**

“Together We Rise”: AFT 1493 members join Redwood City rally in opposition to Janus Supreme Court case

by Katharine Harer, AFT 1493 Co-Vice President

Members of our local joined with AFSCME Local 829 and SEIU Local 521 members, along with workers from an array of unions in San Mateo County and the South Bay, at a rally held February 26th at the Government Center in Redwood City, the day oral arguments began in Janus v AFSCME at the Supreme Court. Rich and powerful corporations are funding this attack against working people and using the Supreme Court to divide us and to take away our freedom to join together to fight for fairness and decent working conditions.



Union members at the February 26th rally against the Janus Case

movement is prepared to fight back against the potential loss of non-members' fees if the Court decides, as many expect it will, in favor of Janus. We are committed to keeping our unions strong. Katharine Harer, Michelle Kern, Jessica Silver-Sharp and her son, Josh Sharp (age 12) mingled with



Speakers at the rally, dubbed “Together We Rise,” included Cindy Chavez, District 2 Supervisor for Santa Clara County; David Canepa, District 5 Supervisor for San Mateo County; and Julie Lind Rupp, Executive Secretary-Treasurer



of the San Mateo County Labor Council. David Canepa (in photo, above) told the crowd: “Janus is an attack on our middle class. What you’re doing today is so meaningful, not only for just you as an AFSCME member, not only for just you as an SEIU member, but you’re doing it for the rest of the county and making sure we don’t let our middle class values go to waste.” [See short video at: <https://youtu.be/NB86Bw2iLnE>]

The spirit of the gathering was upbeat and the message was loud and clear: working people need unions! The labor



Josh Sharp, Jessica Silver-Sharp, Katharine Harer & Michelle Kern

teamsters, school bus drivers and many others on a freezing and windy day, proudly wearing our red AFT 1493 t-shirts. We let everyone know: *Community college teachers are here!*

Sister rallies were held across the country on February 26th and, on the weekend leading up to the Supreme Court’s hearing of the case, AFSCME led the Working People’s Day of Action, where tens of thousands of working people and their allies protested in 30 cities across the country. □

For more about the Janus case, see page 6.

PERS healthcare coverage working well for retirees

by John Searle, President, District Association of Retired Teachers (DART), CSM Professor Emeritus

Like all good writers/speakers, I begin with my self-disclosures: I have been happily retired for the last ten years, enjoying full medical coverage, courtesy of my chosen option, Kaiser. (God bless Kaiser). In fact, at breakfast meetings with a couple of retired colleagues, we begin with a prayer of thanks to our Kaiser benefactor. In my case, two new improved eyes (cataract removal/lens replacements), at an outrageous cost of \$15 copay per eye, (an operation listed at \$9000 an eye on the open market), bored out sinuses, and a patch-up job on one rotator cuff (shoulder). I might add my two friends have notched up a couple of hip replacements, a TURP (prostate) clean out and more. While teaching, I went through two office partners, both of whom had bypass surgery while still teaching, though I claim I was not responsible for either. In both cases, their cost was \$10 copay (it was a number of years ago).



PERS provides good health plans

Having said this, not all Kaiser insurance options are equal; we happen to be offered one of the higher end varieties. Equally true is that the District/PERS also offer other HMO and PPO options for both working and retired teachers. My choice was influenced by life being complicated enough without having to plow through the various HMO and PPO offerings, then search out a given doctor; so I plead ignorance outside Kaiser.

Health Benefits Committee investigating alternatives to PERS

So, having said this, it is with some alarm that we read that there is a Health Benefits Committee that has already met three times (a fourth meeting took place on March 15) to investigate alternatives to the PERS brokerage of offerings for health benefits for retired faculty, as well as for the present teaching faculty. I thought it might be of interest to share what I have gleaned about the process.

I would like to emphasize this article is written with the concern and perspective of a retired individual, but the concern should be felt by those presently teaching, anticipating the rewards in later retired life.

Health benefits were hard earned

To begin in the beginning, as part of the remuneration package to faculty, in addition to salary, the District offers a health insurance package, with PERS acting as a "brokerage" for individual insurance offerings. Although this health insurance package comes with certain limitations, health benefits were a hard-earned item in our teaching compensation that were achieved in lieu of smaller salary raises in the past, not out of the generosity of the District, and faculty should fight to keep them, or even improve on them. Since the mid 90's, the District chose PERS as the broker to provide a list of programs with different insurance vendors/providers, each with their own descriptions of coverage and copays.

Retiree health benefits based on hire date

I have to interrupt this story by acknowledging that not all faculty members are equal. There are three key dates that decide your retirement healthcare worth. The level of coverage for a retired individual begins with the magic 75. To get full benefits, the employee's age plus years of District service must be equal or greater than this magic 75. Also, the years of District service required are 10 years if hired prior to 9/8/1993 and 20 years if hired on or after 9/8/93.

For those hired prior to 1/1/87, the District pays lifetime medical (choice of plans) and dental coverage for both retiree and partner: if the retiree dies first, lifetime coverage continues for the un-remarried survivor. (Incidentally, one must be married one year prior to retirement for the partner to be covered.)

If hired 1/1/87 through 9/7/93, then the lifetime maximum monthly premium paid by the District is equivalent to the current cost of the Kaiser Plan; the District pays lifetime reimbursement for Medicare Part B monthly premiums; dental is as above, and the same procedure is applied to the surviving un-remarried survivor as above.

If hired on or after 9/8/93, the retiree is limited to a flat monthly maximum of \$450 towards health insurance until the retiree becomes eligible for Medicare Part B; the District then pays for the lowest cost medical plans available for the retiree only (currently the Kaiser plan). The retiree only gets

continued on the next page

| Hire Date | Description of Retiree Fringe Benefits Package | Spouse/Domestic Partner Coverage |
|-----------------------------|---|--|
| Hired prior to 1-1-87 | <ul style="list-style-type: none"> • District-paid, lifetime medical and dental coverage (choice of any plan provided for active employees) • Lifetime reimbursement for Medicare Part B monthly premiums. | Same as retiree. If retiree dies first, lifetime coverage will continue for the un-remarried survivor. |
| Hired 1-1-87 through 9-7-93 | <ul style="list-style-type: none"> • Medical: lifetime maximum monthly premium paid by the District is equivalent to current cost of the Kaiser Plan. • District-paid, lifetime dental coverage (same plan choice as provided to active employees)- Lifetime reimbursement for Medicare Part B monthly premium. | Same as retiree. If retiree dies first, lifetime coverage will continue for the un-remarried survivor. |
| Hired on or after 9-8-93 | <ul style="list-style-type: none"> • District pays a flat monthly maximum total of \$450 toward health insurance until retiree becomes eligible for Medicare Part B. With Medicare Part B, District then pays for the lowest cost medical plan available for the Retiree ONLY (currently Kaiser plan). • Retiree only lifetime reimbursement for Medicare Part B monthly premium. | Included in the \$450/month retirement benefits paid to retiree. However, when retiree becomes eligible for Medicare part B, medical benefits will no longer be available to spouse/ domestic partner. |

lifetime reimbursement for Medicare Part B monthly premiums. Here the spouse/partner only gets a share in the \$450 coverage while it is being paid to the retiree!

Looking for better rates for equal coverage?

Personally, I find it hard to justify the above distinctions, but that is the contract as written. With this proviso, it seems this system of PERS-contracted insurance has worked well (at least in my opinion) for many years. But recently, the District has chosen to change its dealings with its employees (AFT, AFSCME, CSEA) by wanting to give each assigned group an allotted fixed pot of money/cash and allow each group to allocate its own salary/benefits ratio. The District continued with this logic, by arguing that if (a big IF) they could get better insurance rates through a different broker, then any savings would be passed on to the respective employee groups, and every person would be happier (and wealthier.) The second hope was that new options might be available from another brokerage outfit. An example, given to me by a District official might be a second Kaiser offering to the one already on the books; this one might be a lower monthly cost, but with higher copays. The District says the yearly cost of the PERS collective insurance has been rising faster than the national average; but in the same breath, they also say the rates have fluctuated in the past, even going down as well as up.

Any potential change also has to reflect certain facts: PERS requires 6 months notice prior to allowing a group to withdraw from the program; and a 5-year waiting period prior to reentry if desired.

For the record, if we discuss numbers, I have been told there are about 990 current full-time employees, with 60%

choosing the Kaiser option. In contrast, there are about 870 retired individuals, or surviving partners/spouses collecting retirement health benefits, with about 40% choosing the Kaiser option. And if we focus on teachers, then the retired number is in the 250-300 region.

Future retiree health benefits are funded

A number of years ago, there was a concern that there had been an under-funded liability associated with these retirement health benefits. Here there is some good news. The District/Trustees made a decision some time ago to start saving/squirreling away a set amount of cash (in the millions) to cover this projected failure to fund the system. Rather than just let the cash slush fund sit festering in a bank account accumulating a miniscule amount of interest, the District made a decision to borrow from this fund and use the cash generated to build three housing units, one on each campus (more correctly two built, one in the planning/building stage) to accommodate faculty, anticipating the rents recuperated would regenerate the money later for retired benefits. The benefits to the present faculty are obvious; "low income" housing on site.

The most recent Health Benefits Committee took place Thursday, March 15 when it was scheduled to make the decision whether to proceed with searching for an alternative option to the PERS brokerage. Incidentally, I was denied attendance at that meeting either as a participant or spectator.

My concern about the situation being considered by the Committee is that there are incredible complexities involved and that the present system is good for retired faculty. I am not convinced that some different broker can magically give significantly better and cheaper offerings than the present deal. □

Janus v. AFSCME comes to the U.S. Supreme Court

By Robert J. Bezemek, AFT 1493 attorney

The case of Janus v. AFSCME, pending in the Supreme Court, is the latest effort by a combination of conservative groups and individuals to diminish, if not destroy, public sector labor unions. The Janus attack is aimed at substantially reducing union funding, to impair their ability to represent employees.

It was not until the administration of president Franklin Roosevelt that federal legislation, in 1935, authorized private sector employees to form labor unions and negotiate collective bargaining agreements, and protected employees from unfair labor practices. The National Labor Relations Act allowed labor unions to exclusively represent employees of an employer, in appropriate bargaining units, and to bargain over wages, hours and terms and conditions of employment. The public sector lagged behind. In California, it wasn't until 1976 that the Legislature adopted the Educational Employment Relations Act (EERA), which brought the federal model to the public schools and community colleges. Eventually, the State extended this model to all California public employees. As does the NLRA, the EERA imposes on unions a duty to "fairly represent" all the employees in the bargaining unit.

Non-members pay "fair share" for union work

For almost half a century, a corollary of this duty of fair representation is that employees who choose, for whatever reason, to not join their exclusive bargaining agent, must pay a "fair share" or "agency" fee to support the union's performance of its representational responsibilities. Excluded from the agency fee are certain political activities.

The anti-labor groups funding Janus claim that it is unconstitutional for the government, through labor laws like the EERA, to require non-members to pay agency fees. Their argument is that because public sector unions negotiate with public employers over the expenditure of public monies, that

every proposal a union makes and every action a union takes is "political." In other words, compelling non-members to support collective bargaining forces non-members to "speak," and thus violates the First Amendment. They argue that everything negotiated, from academic freedom, to grievance procedures, to assignment policies, to intellectual property rights, is "political," and prevent the collection of agency fees.

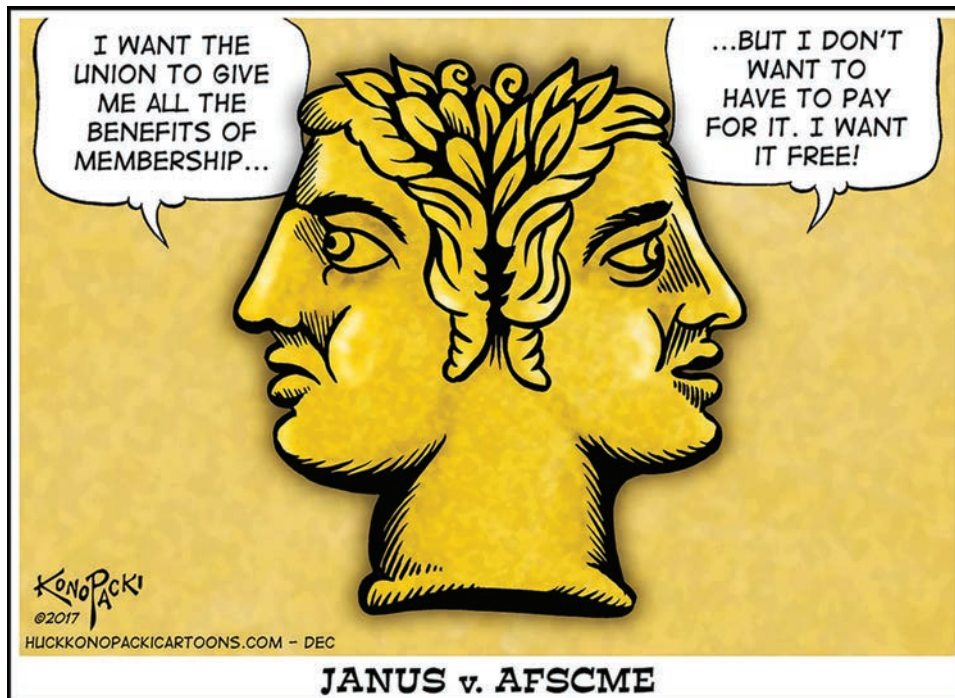
Strong argument supports constitutionality of agency fee; more than 40 amicus briefs

The one public employee making these claims in Janus lost in the federal district and appellate courts, and then appealed to the US Supreme Court, which agreed to hear his case. AFSCME has made a persuasive argument that the agency fee process, in effect since the Supreme Court decided the Abood case in 1977, is constitutional. More than 40 groups filed friend-of-the-court briefs supporting AFSCME. These included a number of constitutional law professors and other labor unions.

These briefs note that "compelled" subsidies of speech happen all the time: doctors, lawyers and community college faculty must take continuing training, to become licensed in an occupation many employees must purchase training, drivers must buy auto insurance, and children must be vaccinated to attend public school. As amicus UCLA Prof. Eugene Volokh argued in support of AFSCME, "the First Amendment does not provide freedom from any of these mandatory payments for other speech."

If the Supreme Court sides with Janus, unions which have large contingents of non-members will be at a serious disadvantage in representing every employee, including the non-members. So much is riding on the Janus decision.

The Supreme Court heard oral argument on February 26, and a decision is expected in the spring or early summer. The amicus and party briefs can be found at the [SCOTUS blog](#). □



Major anti-war action to be held in Oakland on April 15

Seventy-five determined activists from nearly every Bay Area county attended the February 12 founding meeting of the Spring Action 2018 Against the U.S. Wars at Home and Abroad. Their unanimous decision was to build a mass anti-war and social justice march and rally in Oakland on Sunday, April 15, in coordination with the planned national protests.

This new coalition strives to bring the anti-war movement back into the streets, reaching out to all our allies and building a powerful force to end all U.S. wars.

The demands below were approved at the February 12 founding meeting.

- No to U.S. threats of war and intervention in North Korea, Iran and Venezuela. End all U.S. wars now from Afghanistan, Iraq, Syria, and Yemen to Sudan, Libya and Somalia. Hands off Haiti and Honduras. End U.S. overt and covert wars, drone wars, sanction/embargo wars, death squad assassination wars.
- Close all U.S. bases on foreign soil. Dismantle all nuclear weapons.
- Bring all U.S. troops home now. Self-determination not military intervention. U.S. hands off the Middle East, Africa, Asia & Latin America. End U.S. aid to apartheid Israel. Self-determination for Palestine. The U.S. cannot be the cop of the world.
- Defend the environment against life-threatening fossil fuel-induced global warming. For a rapid transition to a 100 percent clean, sustainable energy system and retraining and

jobs at union wages for all displaced energy workers.

- No to white supremacy & racist policies & actions against Muslims, immigrants, people of color, and indigenous peoples. No to police brutality/murder. End racist mass incarceration. Black Lives Matter!

- No human being is illegal. No to deportations. Yes to DACA and TPS (Temporary Protective Status) and a just and early path to citizenship. No ban, no wall!
- No to sexism, sexual violence, LGBTQI and gender preference oppression. Yes to equal work and pay. Support women's reproductive rights.

- \$Trillions for human needs. For jobs, and social services, quality debt-free education, single payer health care and massive emergency relief for Puerto Rico. No to \$trillion tax cuts and corporate bailouts for the rich. No to anti-union legislation. For \$15 and a Union Now.

NO!

TO U.S. WARS AT HOME & ABROAD



After the March AFT Local 1493 Executive Committee meeting, the E. C. voted to endorse the April 15 March and Rally in Oakland.

The Spring Action's new Facebook page is: [End the Wars at Home & Abroad - Spring 2018](#) for the Oakland event. The national website is: www.springaction2018.org and the call, which was approved unanimously at the recent Baltimore national conference of the Coalition Against U.S. Foreign Bases, is: noforeignbases.org/wp-content/uploads/2018/01/Spring-Action-Call.pdf. □

Amendments to AFT 1493 By-Laws to be voted on in union election

In February AFT 1493 launched a membership campaign. Among other things, we wanted to make sure that faculty who are fee-payers knew their status. Many fee-payers thought they were union members and they were shocked to find out they were not. Union membership also affords you certain rights and benefits. Voting is one of the most important rights of a union member.

This spring, in addition to electing new officers for AFT 1493, union members will be voting on amendments to our Constitution and the adoption of our By-laws.

Last fall, the Executive Committee worked on changes and additions that make our Constitution a stronger docu-

ment, with clearer language that eliminates ambiguities. Additionally, our current Union Handbook, which was developed many years ago to clearly define the duties of officers and union staff, will be adopted as our By-Laws.

If you have not been approached by a member of our Executive Committee this semester and you are not sure if you are union member or fee payer, please contact anyone listed on the left column of page 2, and we will let you know. (Every faculty member has a payroll deduction for "AFT - Union Dues / Agency Fees". This does NOT indicate whether you are a union member or not.) **About 90% of the faculty in our District are union members.** □

“College for All” organizers working to get initiative on Nov. ballot

Around the state, signature gathering efforts are in full swing to put the College for All Act on the November ballot as a voter initiative. College for All would provide four years of free public higher education (UC, CSU or Community College) to all California residents, regardless of income. It would also expand Cal Grants for lower income students, by increasing grant amounts by 80% and allowing an additional 330,000 students who are currently excluded to qualify for these grants.

Our local, AFT 1493, endorsed the College for All campaign at its January retreat. In February, the Executive Committee voted to contribute \$1,000 to the campaign. We also committed to talking to our Student Senates in the three colleges in our district, to try to involve our students in this campaign. Dan Kaplan spoke at the most recent meeting of the Associated Students of College of San Mateo. Monica Malamud attended the Associated Students of Cañada College meetings of February 1st and 15th. Student senators both at CSM and at Cañada expressed great interest in College for All.

Monica has been working within the California Federation of Teachers (CFT) to promote this voter initiative. In



her capacity of Chair of the CFT Higher Education Issues Committee, she discussed this topic with committee members, who then voted to propose a workshop for the upcoming CFT Convention. Panelists will include Tim Killikelly, president of AFT 2121, instrumental in the passage of “Free City” for San Francisco residents, Jim Mahler, president of the Community College Council of the CFT, and a College for All campaign organizer. In this workshop, with Monica

serving as moderator, participants will learn how to engage and educate their colleagues, their students and their community in a successful campaign to make free higher education a reality in California once again.

The Cañada community has been signing petition forms to qualify this voter initiative.

Efforts will be intensified throughout the district in the coming weeks, as enough signatures must be collected by April 24th. If you are a registered voter, your signature on a petition form will help us qualify College for All. Anyone over 18 years old can volunteer to gather signatures; please contact Dan Kaplan at the AFT office at CSM (X6649) and he will make sure you get petition forms and instructions. We hope you will join us in these efforts so that California voters will be able to decide in November whether higher education should be free once again in our state. □

District must stop violating “50% Law”

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requirements have included this:

“There shall be expended during each fiscal year for payment of salaries of classroom instructors, 50 percent of the district’s current expense of education.” (Education Code §84362 (d))

Public schools, such as those in the familiar K-12 configuration, still must meet a 60% requirement. Is that figure, or 50%, arbitrary? The extensive Legislative study and analysis, occurring for nearly 160 years, and the legitimate purposes behind the law, belies that claim.

Does labeling the 50% Law as “antiquated,” excuse its violation? Just because a law is “old” doesn’t make it obsolete, nor does it permit its violation. Indeed, the 1st Amendment of the U.S. Constitution though older than the 50% Law, having been adopted in 1791, remains vital to this day, especially given its position at the core of academic freedom.

Purposes of 50% law: increase teachers’ salaries, reduce class size & control non-instructional costs

The primary purposes of the 50% law, and its ancestors, as officially recognized by the State, is to increase

teachers’ salaries (as a group), reduce class size, and control non-instructional costs. Claiming that a law which includes those beneficent purposes “disadvantages” students seems a stretch. The 71 community college districts which satisfied the 50% law in 2015-2016 were still able to deliver a myriad of services to their students. When a law is being implemented statewide, and has been continuously updated, it is awfully hard to argue it’s obsolete, even if it could still be improved.

The 50% law operates on a three-year cycle. In year 1 a district must expend sufficient resources to meet the 50% requirement. In year two its success in the prior year is measured, and reported. Some failures are excusable, others not, under statutory guidelines. And if it has inexcusably failed to fulfill at least the 50% requirement, then in year 3 it must expend 50% of the “current expense of education” for “salaries of classroom teachers,” plus any amount by which it failed to meet the standard in year 1. San Mateo failed in year one and reported its failure in year 2. Now its day of reckoning is coming for by June 30, 2018 it must satisfy the remedial requirements for year 3, or else be in violation of the law, with the consequences which flow from that. What will San Mateo choose to do? □