

RIPPLE EFFECT

Navigating Structural &
Regulatory Complexities
Unique to California

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Assess Your Knowledge...

- Which regulation was designed to increase the amount of instruction delivered by full-time faculty?
- Which laws assign duties to faculty that take them out of the classroom?
- Define who is a faculty member, and under what circumstances.

Why Do We Need to Discuss 50-Year-Old Laws TODAY?

- Laws and regulations were added one at a time over the years to address specific issues.
- No one studied the collective impact and the interaction between individual mandates.
- That impact was not analyzed as new laws and regulations were proposed and passed.
- We have a situation that is unwieldy and counter-productive.
- Form does not follow function.

Timeline

1961 - Fifty Percent Law

1977 - Educational Employment Relations Act (EERA)

1988 - AB 1725

1988 - 75/25

1989 - Faculty Obligation Number (FON)

2006 - SB 361

2012 - SB 1456

Other Requirements

- Accreditation
- Minimum Conditions

Unintended Consequences

- Each of these laws and regulations is designed to address a particular issue, but they overlap in certain areas and are often in conflict with one or more of the others.
- These requirements also lead to unfunded mandates.
 - Initial funding was sometimes provided when legislation was passed, but funding was later cut, yet the mandates remained.
 - In some cases, legislation was passed without any funding to implement it, yet we must still meet the requirements.

FIFTY PERCENT LAW



Fifty Percent Law

Background/Intent

- Included in Education Code (§84362).
- Enacted in 1961 when most community college districts were part of K-12.
- Designed to be a class-size reduction measure for K-12, but it applies equally to community colleges.
- “The policy judgment underlying this bill is that school districts are expending too much money on administration and on student counseling and guidance services. It is believed that the need for extensive counseling and administrative services would be substantially reduced if the classroom teacher was not confronted with over large classes...”
 - *Correspondence from Legislature to the Governor, 1961*

Fifty Percent Law

Specifics

- “There shall be expended during each fiscal year for payment of salaries of classroom instructors by a community college district, 50 percent of the district's current expense of education.”
- Defines a classroom instructor as an “... employee of the district employed in a position requiring minimum qualifications and whose duties require him or her to teach students of the district for at least one full instructional period each school day for which the employee is employed.”

Unintended Consequences

Fifty Percent
Law

vs.

Technology

- Expenditures on classroom technology, hardware and software needed to offer online education, instructional designers, and online tutors, fall on the wrong side of the Fifty Percent Law.
- It would be impossible for faculty to effectively teach online without this equipment and support.

Unintended Consequences

50 Percent Law Definition of Instruction

Allowable	Non-Allowable
Classroom Instructors (Salaries & Benefits)	Lab Techs
Instructional Tutors (Salaries & Benefits)	Instructional Designers
Instructional Aids Present in the Classroom	Learning Management System (LMS)
	LMS Support Staff
	Distance Education (DE) Support Staff
	Campus Network Infrastructure
	Network Servers
	IT Specialists/Network Engineers
	Classroom Computers
	Digital Data Projectors and Software
	Classroom/Laboratory Supplies
	Athletic & Fitness Trainers to Support Intercollegiate Teams

EDUCATIONAL EMPLOYMENT RELATIONS ACT (EERA)



Educational Employment Relations Act (EERA)

Background/Intent

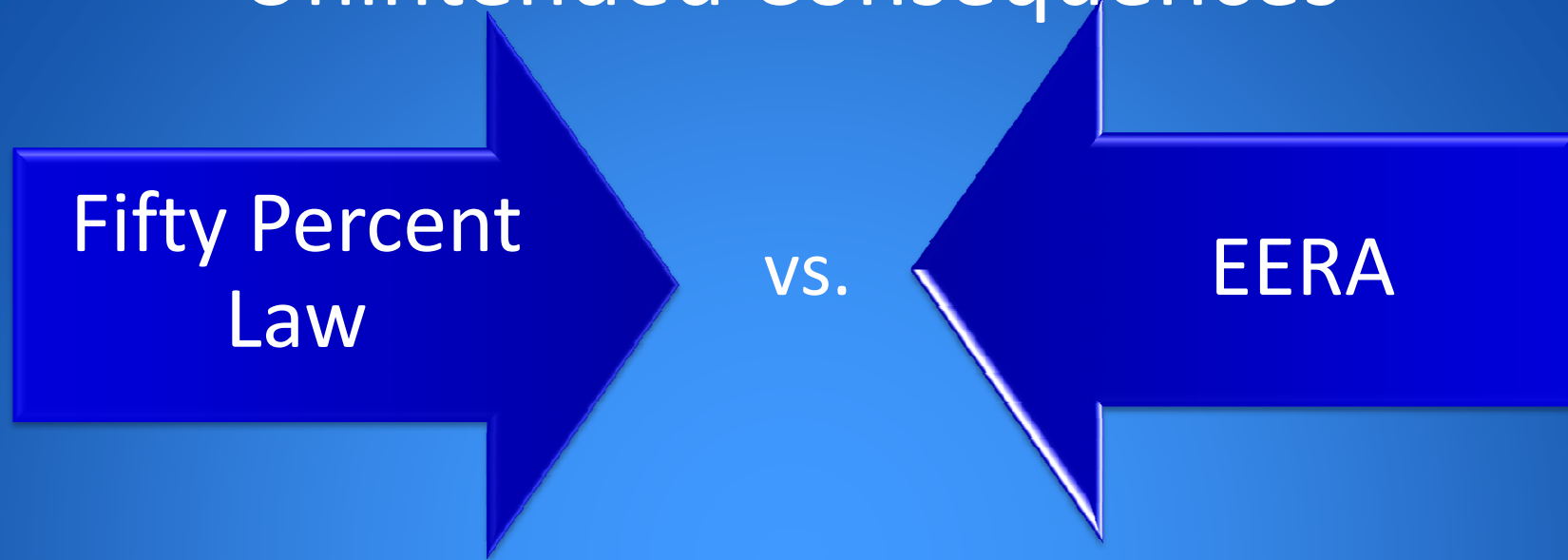
- Enacted by the Legislature in 1977 to implement collective bargaining.
- Included in Government Code §3543.2(a).
- As with AB 1725, Legislature expanded scope of community college faculty responsibilities beyond teaching in the classroom.
- Counselors, librarians, and instructional curriculum developers are included as faculty in collective bargaining agreements.

Educational Employment Relations Act (EERA)

Specifics

- Legislature removed authority from districts to set salaries, class sizes and role of instructors outside the classroom.
- They must now be collectively bargained.
- Also included for bargaining were evaluation procedures, education objectives, curriculum, and textbook selection.

Unintended Consequences



- EERA requires faculty to engage in collective bargaining.
- This adds a job duty that takes faculty out of the classroom.
- This duty falls on the wrong side of the Fifty Percent Law.
- Any release time paid to engage in these activities counts against Fifty Percent Law compliance.

AB 1725



AB 1725

Background/Intent

- Collegial consultation recognizes that, in order to bring as much information, analysis and perspective as possible to the decision-making and planning processes, the administration needs to rely on input from the entire college community during the goal-setting process and as action priorities are implemented.
- To accomplish collegial consultation, the Legislature made it clear that it intended to expand the definition of the appropriate role of community college faculty beyond the classroom.

AB 1725

Intent continued

- A key component of AB 1725 was Program Based Funding.
- This included funding formulas for Student Services.
- These functions were never funded.
- This lack of funding helped lead to the development of SB 361.

AB 1725

Specifics

- Was implemented in 1988.
- Added minimum qualifications, local hiring criteria, and faculty service areas.
- Set tenure at four years.
- Instituted evaluation/peer review.
- Implemented administrator contracts.
- Set a goal of having 75% of credit hours taught by full-time faculty.
- Initiated staff development.
- Established diversity goals.

AB 1725

Specifics

- It states that the Board of Governors of the California Community Colleges shall establish “minimum standards” and local governing boards shall “establish procedures not inconsistent” with those minimum standards to ensure:
 - faculty, staff and students the right to participate effectively in district and college governance and
 - the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.
(Education Code Sections 70901 and 70902)

AB 1725

Specifics

- The district governing board shall develop policies on 10+1 academic and professional matters:
 1. Curriculum, including establishing prerequisites and placing courses within disciplines.
 2. Degree and certificate requirements.
 3. Grading policies.
 4. Educational program development.
 5. Standards or policies regarding student preparation and success.
 6. District and college governance structures, as related to faculty roles.

AB 1725

Specifics

7. Faculty roles and involvement in the accreditation processes, including the self-study and annual reports.
8. Policies for faculty professional development activities.
9. Processes for program review.
10. Processes for institutional planning and budget development.
11. Other academic and professional matters as mutually agreed upon between the governing board and the academic senate.

AB 1725

Specifics

- Reassigned Time is given to faculty to enable them to participate in these activities.
- Districts have authority to allocate Reassigned Time and stipends to faculty based on local needs.
- For example, our college gives Reassigned Time for these roles:
 - Department Chair
 - Instructional Education Liaison
 - Academic Senate President
 - Assistant Director, Nursing
 - Union President
 - SLO Training and Curriculum Coordinator
 - Skills 4 Success Coordinator
 - Associate Program Coordinator
 - Field Studies Coordinator
 - Synergy Coordinator
 - Program Development
 - Forensics
 - Curriculum Coordinator
 - Curriculum Software (Curricunet) Project
 - CCA Conference Chair
 - SLO Coordinator
 - Tenure Review Coordinator
 - Institute for Teaching & Learning Coordinator

Unintended Consequences



Fifty Percent
Law

vs.

AB 1725

- AB 1725 adds additional duties to the role of faculty members beyond “classroom instruction.”
- These duties are counted on the wrong side of the Fifty Percent Law.
 - It is difficult to fully fund these roles, especially for small colleges.

75/25



75/25

Background/Intent

- Education Code §87482.6
- *“... the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors.*
- Districts were required to spend a portion of program improvement funds (much of which were never received) to improve their full-time to part-time ratio.
- Program improvement funds were not included in the state budget after 1991, yet the mandate remains.

75/25

Background/Intent

- Enhance the quality of instruction by increasing the number of classes taught by full-time faculty.
- The Legislature said, “... because the quality, quantity, and composition of full-time faculty have the most immediate and direct impact on the quality of instruction, overall reform cannot succeed without sufficient members of full-time faculty with sufficient opportunities for continued staff development, and with sufficient opportunity for participation in institutional governance.”

75/25

Specifics

- Key factors in determining 75/25 compliance:

INCLUDED in calculation	EXCLUDED from calculation
Credit Instructional Hours	Non-credit Instructional Hours
Sabbaticals	Adjunct Backfill of Sabbatical Replacements
Released/Reassigned Time	Adjunct Backfill of Released/Reassigned Time
FLEX Time	Staff to Organize Development Programs
Unpaid Leave	Adjunct Backfill of Unpaid Leave
Teaching by Classified Staff or Administrators	Overload Assignments for Full-Time Faculty

Unintended Consequences



- EERA and AB 1725 divert full-time faculty from the classroom to focus on collective bargaining and governance duties.
- This decreases the amount of time that full-time faculty are in class, counteracting the intention of 75/25, which is to *increase* the percentage of instruction delivered by full-time faculty.

FACULTY OBLIGATION NUMBER (FON)



Faculty Obligation Number (FON)

Background/Intent

- Designed to address goal of having 75% of instruction provided by full-time faculty.
- Did not generally succeed due to expense.
- However, it set an annual minimum number of full-time faculty that each district was obligated to hire.
- Although not classroom faculty, counselors and librarians count toward complying with the FON.

Faculty Obligation Number (FON)

Specifics

- Under these regulatory requirements, each fall term districts must employ a minimum number of full-time faculty.
- This requirement is expressed in terms of full-time-equivalent faculty positions and is referred to as the full-time faculty “obligation,” or FON.
- In years in which the BOG determines adequate funds are available for full implementation, each district’s obligation increases approximately by its percentage increase in funded full-time equivalent students (FTES) in credit courses.

Faculty Obligation Number (FON)

Specifics

- In addition to classroom instructors, counselors and librarians both count toward meeting the FON obligation.
- A penalty is assessed by the Chancellor's Office for not meeting the FON:
 - Penalty is determined by multiplying the number of faculty below the target by the statewide average replacement cost of a faculty member.
 - Payment of the penalty can be deferred for 1 year, but it cannot be waived.

Faculty Obligation Number (FON)

- The FON is not locally set - the State Chancellor's Office calculates the FON every Fall: LOCAL DISTRICTS HAVE NO ROLE IN THIS.
- State funding shortfalls can result in the FON being frozen or decreased.
- Title 5 states that if the state budget does NOT provide adequate funding for the Community College System, the Board of Governors may "freeze" each district's FON at the previous year's level.
- Due to many years of cuts to Community College funding, the FON was "Frozen" in Fall 2009, Fall 2010, Fall 2011, Fall 2012.

Unintended Consequences



The diagram features two large, dark blue arrows pointing towards each other, creating a central space. The left arrow points right and contains the text 'Fifty Percent Law'. The right arrow points left and contains the text 'Faculty Obligation Number'. Between the two arrows, the text 'vs.' is centered. The entire diagram is set against a blue gradient background.

Fifty Percent
Law

vs.

Faculty
Obligation
Number

- Only spending on the salaries and benefits of classroom instructors counts toward meeting the Fifty Percent Law obligation.
- Librarians and Counselors, which count toward meeting the FON, fall on the wrong side of the Fifty Percent Law.
- Yet any faculty member counts in the FON.

SB 361



SB 361

Background/Intent

- Authored in 2006 by Senator Jack Scott.
- Designed to equalize per-FTES funding, which ranged from \$2,500/FTES to \$8,000/FTES across districts.
- Replaced Program Based Funding, which was implemented with AB 1725, but never fully funded.
- Seen as a solution to the long-standing problem of irregular per-student funding across districts.

SB 361

Specifics

- Included in Education Code §84750.
- Set minimum per-credit FTES rate at \$4,367, which is adjusted annually by COLA.
- Set the non-credit rate at \$2,626 per FTES, with annual COLA adjustments.

SB 361

Specifics

- Growth rate changes were never finalized:
 - State economic downturn began after 2007-08.
 - FTES Targets and Base Funding were reduced.
 - “Growth” Funding became “Restoration” Funding.
 - SB 361 reversed language for “workload reductions.”

SB 361

Specifics

- Proposed growth rate changes (but never enacted)

PREVIOUS	2004 PROPOSED (BUT NEVER ENACTED)
Adult population change X college population over 21	Adult population change X college population over 21
High school graduates change X college population under 21	High school graduates change X college population under 21
Statewide average participation rate – district participation rate	¼ of the district's primary county's unemployment rate over full employment, not to exceed 2%
OR	1/3 of the district's 3-year overcap (between 102% and 110% of cap)
½ of 90% of the change in new state-approved facilities being brought online	1/3 of 100% of the change in the new state-supportable facilities being brought online.*

Total will equal at least 100 FTES or 1% increase

** To be included only if sum of first 4 lines is less than or equal to 10%*

MINIMUM CONDITIONS



Minimum Conditions

Background/Intent

- Education Code and Title 5 specify “minimum conditions” a district must meet.
- If these 19 programmatic requirements are not met, the Chancellor’s Office can remove some, or all, of a district’s state funding.
- Minimum conditions ensure a consistent level of service to students across the state’s 112 campuses.

Minimum Conditions

Specifics

- A sample of the 19 minimum conditions include:
 - Prepare education and facilities master plans.
 - Undergo accreditation.
 - Provide academic counseling.
 - Enable college staff to participate effectively in district and college governance.
 - Provide matriculation services.

Unintended Consequences



- Minimum conditions fall on the “wrong side” of the Fifty Percent Law.
- Most are supportive services, and these must be balanced by spending on the “right side.”
- If you fail to meet minimum conditions, Chancellor’s Office can WITHHOLD APPORTIONMENT.

SB 1456 – STUDENT SUCCESS ACT



SB 1456 – Student Success Act

Background

- The Board of Governors approved the recommendations made by the Student Success Task Force.
- Areas of emphasis include linkages with K-12 schools, student intake and support, instructional programs, and accountability.



SB 1456 – Student Success Act

Intent

- The Student Success Task Force recommendations are meant to point the way forward for California Community Colleges as the system works to improve the way it helps students to identify their educational goals, achieve them, and transfer or move into the workforce.

SB 1456 – Student Success Act

Specifics

- Students must declare a course of study by the time they complete 15 degree-applicable units or their third semester.
- New students who complete orientation and assessment, and have a student education plan, will receive higher enrollment priority.
- Implementation of minimum academic standards for students receiving BOG fee waivers.
- Implementation of Student Success Scorecard and Salary Surfer.

Unintended Consequences



- SB 1456 services fall on the “wrong side” of the Fifty Percent Law:
Assessment Orientation Counseling
- Any expenditures must be balanced by spending on the “right side.”



Accrediting Commission for Community and Junior Colleges
Western Association of Schools and Colleges

ACCREDITATION



Accreditation

Includes requirements districts must adhere to. For example:

- Standard II.A.1.c: “The institution identifies student learning outcomes for courses programs, certificates, and degrees; assesses student achievement of those outcomes; and uses assessment results to make improvements.”
- Standard II.A.2.b: “The institution relies on faculty expertise ... to identify competency levels and measurable student learning outcomes ...”
- Standard II.B.3: “The institution researches and identifies the learning support needs of its student population and provides appropriate services and programs to address those needs.”

Accreditation

- Standard II.B.3.c: “The institution designs, maintains, and evaluates counseling and/or academic advising programs to support student development and success and prepares faculty and other personnel responsible for the advising function.”
- Standard II.C.1: “The institution supports the quality of its instructional programs by providing library and other learning support services ...”
- Standard III.A.5: “The institution provides all personnel with appropriate opportunities for continued professional development, consistent with the institutional mission and based on identified teaching and learning needs.”
- Standard III.B.1.a: “The institution plans, builds, maintains, and upgrades or replaces its physical resources in a manner that assures effective utilization and the continuing quality necessary to support its programs and services.”

Unintended Consequences



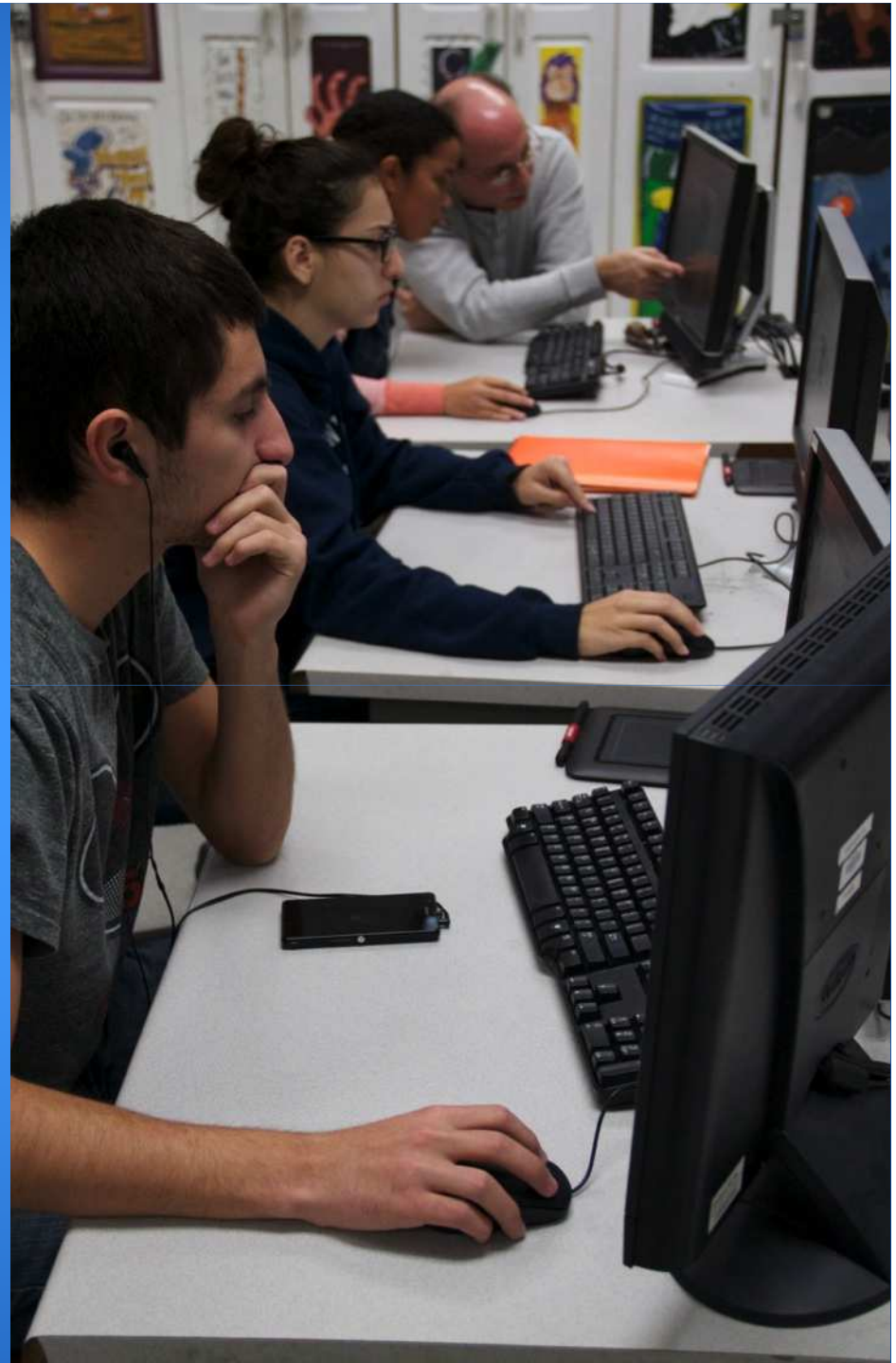
- These are required by Accreditation.
- They are all necessary and worthwhile activities critical to our mission.
- But they all fall on the WRONG side of the Fifty Percent Law.

MOVING FORWARD



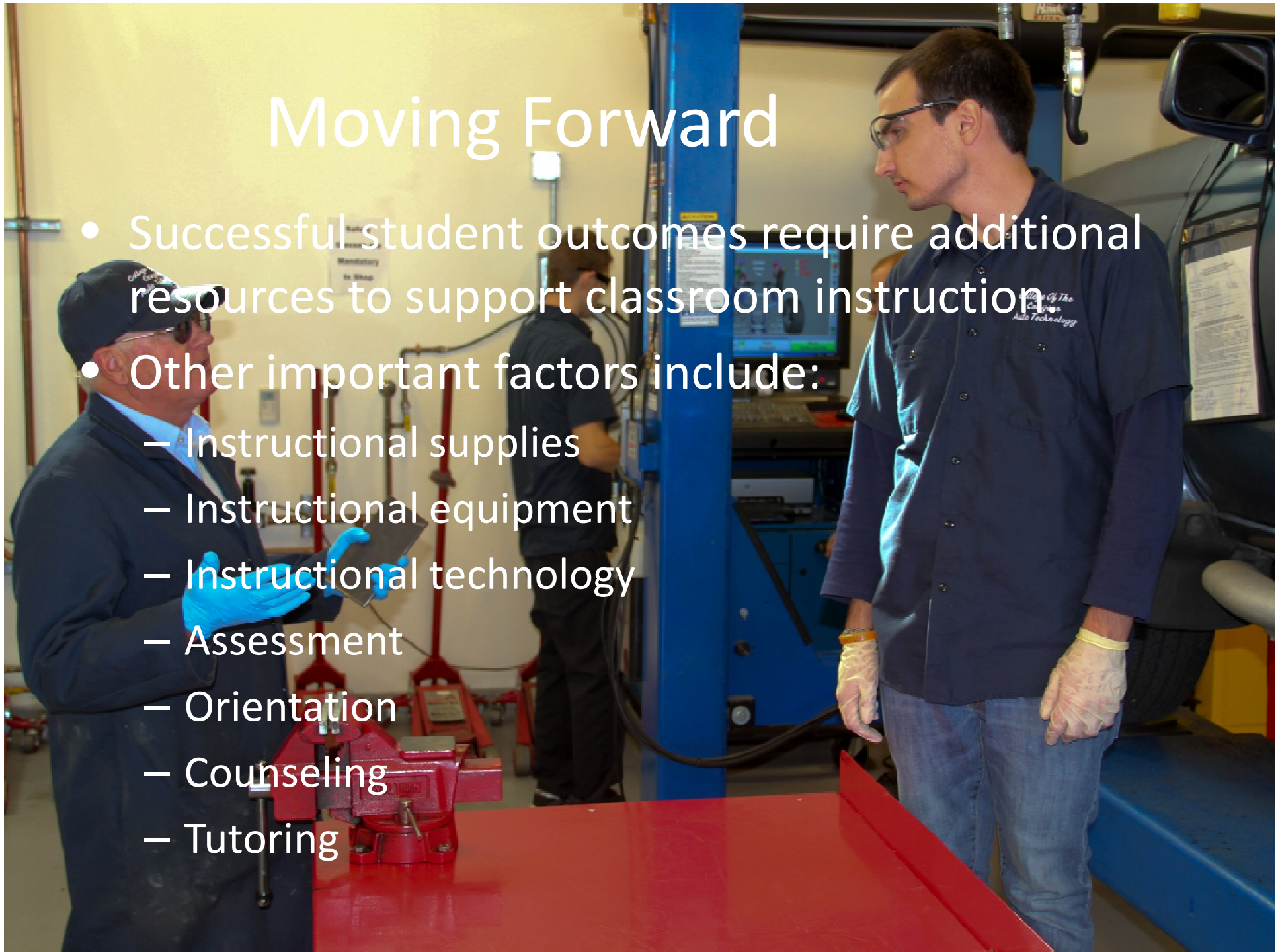
Moving Forward

- Define the true cost of education.
- Account for the demands inherent in today's learning environment and teaching styles.



Moving Forward

- Successful student outcomes require additional resources to support classroom instruction
- Other important factors include:
 - Instructional supplies
 - Instructional equipment
 - Instructional technology
 - Assessment
 - Orientation
 - Counseling
 - Tutoring



Moving Forward

- Adjust laws and regulations to:
 - Properly fund the true cost of today's higher education.
 - Give districts the flexibility to meet local demands and priorities.
- Example:
 - Adjust the Fifty Percent Law
 - Single definition for faculty.
 - All faculty time spent on mandated duties should count toward faculty-defined responsibilities.
- What are your priorities for change?

QUESTIONS?

