

Hello all,

The Joint Study group and members of the Impact Bargaining Team (**Gail Guarino, Claudine Barnes, Rose Freeland, John McColgan, Margaret Wong, Bret Seferian, and Colleen Fitzpatrick**) video conferenced via Zoom with the members of the Presidents Council (**Lane Glenn-NECC, Patricia Gentile-NSCC, James Vander Hooven-MWCC, Carol Wolff-Fallon, Mike Murray, and Tom Sannicandro**) yesterday from 3:00-4:00.

The presidents acknowledged they are in receipt of the impact bargained agreements and the Joint Committee agreed that, going forward, ongoing COVID-19 issues will largely be dealt with at the local level. College presidents will work with chapter leaders via MACER or other customary methods of interactions specific to the chapter. The Day and DCE impact bargaining chairs along with your Chapter's MTA field representative can still assist with local impact bargaining issues. And of course, where there are contract violations, grievances should be filed.

Governor Baker's emergency order yesterday morning, starting from noon today (March 24, 2020) to April 7, 2020, "requiring all businesses and organizations that do not provide "COVID-19 Essential Services" to close their physical workplaces and facilities to workers, and to continue operations remotely" seemed to signal that unit professional staff at the community colleges would, starting at noon, not be required to go to the college to provide in-person service to students and the public on campus. In fact, shortly after Baker's order, MTA's Higher Education Director put out an opinion to the Higher Education Leadership Council (HELIC) that "it is our understanding that the Governor's stay at home order applied to Higher Ed employees, with the exception of law enforcement, power plant employees, and those employees who are supporting students still in dorms."

However, on the Joint Study Committee call, the college presidents did not interpret the Governor's order as permitting professional staff to work remotely. The presidents' position is that community colleges as a whole are exempt from Governor Baker's order. They in fact see no change in the situation between Baker's emergency declaration on March 10 and the order issued yesterday. Their argument was that because the colleges include "essential services" they were exempt from the governor's emergency order. That is, because the colleges engage in, for example, payroll which is an essential service, the community colleges are not impacted by the Governor's order.

Yesterday evening, MTA Legal Counsel, Laurie Houle sent me an opinion that pointed out the absurdity of the presidents' position. Under the presidents' reading of Baker's order, every employer in the commonwealth would be exempt because every organization includes essential services (e.g., payroll and employee benefits). "While there may be limited organizations that as a whole qualify as essential services (e.g., police, fire), most do not. Employers should instead determine what are their essential services (as defined in the order) and what of those cannot be done in whole or in part remotely. That is the only way to abide by both the letter and spirit of the order. To do otherwise makes the employer complicit in impeding the efforts to stem the spread of the virus."

Even though the presidents believe that community colleges are wholly exempt from the Governor's order, some of the colleges that have maintained up to now that they can require professional staff to provide face-to-face services to the public and students, have shown some acknowledgement of the need to pull back on that position. One of the college websites that yesterday morning still advertised in-person hours for this week have posted, as of yesterday evening, the following message: "after 12:00 noon on Tuesday, March 24th, and for the foreseeable future, we will no longer be having in-person service hours for the public on campus." At another college, the president acknowledged that Governor

Baker's directive does "order closing non-essential services from tomorrow (Tuesday) at noon until Monday, April 6th."

While these may be steps in the right directions, the premise that leads the presidents to believe community colleges are exempt from the governor's order regarding non-essential employees remains problematic. We are continuing to seek further clarity from MTA Legal and other authorities regarding the presidents' overbroad interpretation, which will become critical when Governor Baker's order ends on April 7, and COVID-19 is still with us.

I will send out a short survey to chapter presidents to see what issues exist in common so presidents can work with each other and share ideas. Continue to share your concerns and issues.

Thank you for all that you do. Stay safe and continue to do your part to flatten the curve.

Best,

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