

3 April 2020

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Mr Stewart Little
State Branch Secretary
Community and Public Sector Union NSW
Public Service Association

Mr Troy Wright
State Branch Assistant Secretary
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Public Service Association

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No. of Pages: 5 (including Annexure A)

Dear Stewart and Troy,

Re: Closure of all TAFE NSW Campuses to the Public and Students

I refer to your correspondence dated and received last Wednesday 1 April 2020 regarding the closure of all TAFE NSW campuses to the public and students.

Unofficially I have heard that the motion that was carried by members of the Community and Public Sector Union NSW Public Service Association (**CPSU**) in Student Services, specifically the administration areas, across the regions that is referred to in your letter is expected to start from next Monday 6 April 2020. This is despite the fact that other NSW Government agencies remain open as public providers along with the majority of schools, universities and educational institutions across the State which includes TAFE NSW to continue to provide learning for students through the final week of Term 1 for 2020.

At the outset, I want to reiterate that TAFE NSW is committed to continuing to consult and work constructively with all staff and the CPSU to address the challenges presented by COVID-19. As you know this global pandemic health crisis is unprecedented, and its impact on our community is severe. I believe that the best outcomes for TAFE NSW staff and your members, students and the broader community can be achieved by working collaboratively together.

As you acknowledge in your correspondence, the orders made by the Honourable NSW Minister for Health and Medical Research Mr Brad Hazzard under the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020 (NSW)* on 30 March 2020 expressly do not apply to gatherings at educational institutions. As you know, it is consistent with the position of both the State and Federal Governments that TAFE NSW campuses remain open and continue to provide education for students. This is particularly important to support disadvantaged students in our community such as those that rely on TAFE NSW for access to services such as computer technology to continue their studies.

TAFE NSW has taken, and will continue to take, all steps that are reasonably practicable as required by the work, health and safety legislation to ensure the health, safety and well-being of its staff and students. This includes working closely with the NSW Department of Health as we have been for over approximately one month now. I have set out some of the steps that TAFE NSW has taken in **Annexure A** of this reply letter.

As canvassed above, I assume from your letter that the CPSU anticipates that some of its members may consider refusing to carry out work in reliance on Section 84 of the *Work Health and Safety Act 2011* (NSW) (**WHS Act**).

To ensure transparency, I wanted to take this opportunity to inform you of TAFE NSW's expectations of any employee who does so. In accordance with the legislative requirements, TAFE NSW expects that each employee who is considering doing so will:

1. particularise a precise concern about their individual working arrangement and explain why the employee believes this concern poses a serious risk to that particular worker's health and safety;
2. engage with TAFE NSW in a constructive way in accordance with the default issue resolution procedure under the *Work Health and Safety Regulations 2017* (NSW) (**WHS Regulations**) to seek to resolve the precise concern, including by making reasonable efforts to achieve a timely, final and effective resolution of the issue (which is required under Division 5 of the WHS Act);
3. following this, if the employee still has a reasonable concern that carrying out particular work will expose them to a serious risk to their health and safety and that there is an immediate or imminent exposure to a hazard, and so decides to cease work in reliance on Section 84 of the WHS Act, the employee must fulfil the requirements of Section 86 of the WHS Act which are to:
 - (a) notify TAFE NSW that the worker is ceasing work under Section 84 of the WHS Act; and
 - (b) remain available to carry out suitable alternative work.

If a staff member does not follow each of the above steps, TAFE NSW will take the view that the employee is not ready, willing and able to perform work. As you know, an employee in this situation is not entitled to receive pay.

In responding to the COVID-19 crisis please be assured that we are acutely aware of ensuring the health, safety and well-being of our staff and students. We will continue to monitor the situation as it develops and will take any additional steps that are reasonably practicable. We are also committed to continuing to consult with you, including during the daily consultation meetings that occur with the CPSU at 8.30am.

In relation to the urgent meeting you have requested to discuss this matter, I can advise that I am available next Monday afternoon 6 April 2020 any time after 4.30pm. This time immediately follows the interest based consultation committee (**IBCC**) meeting that is facilitated by Deputy President Anna Booth at the Fair Work Commission, and which I understand is attended by industrial officers and delegates from the CPSU and also workplace relations team members from TAFE NSW. I am scheduled to speak with the IBCC next Monday 6 April 2020 from 3.30pm – 4.30pm.

If you have any queries in relation to the information in this correspondence please contact Mr Julian Oliveux, A/Head of Workplace Relations by phoning 0434 781 630 or by sending him an email to Julian.Oliveux1@tafensw.edu.au.

Yours sincerely



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Annexure A

1. Facilitating flexible work which includes from another TAFE NSW campus and/or working from home wherever possible, which includes the requirement to complete a Work Health and Safety (WHS) Checklist of their home work environment.
2. Provision of relevant and timely information to all employees via the TAFE NSW intranet site which has a dedicated webpage in relation to COVID-19. This webpage is frequently updated and timestamped and includes the necessary guidance for staff about health, safety and well-being advice from Federal and State Government Health Departments such as social distancing and good hygiene practices, regular cleaning and sanitisation, coronavirus management and prevention, how to work flexibly from home or alternative locations such as other TAFE NSW campuses that are closer to home, fact sheets, frequently asked questions (FAQS), information for employees about their pay and leave entitlements, and much more.
3. Prior to the pause in delivery which commenced last Monday 30 March 2020, working with teachers and their administrative and support staff to ensure that student learning can continue to occur through 'connected delivery' which involves prioritising the use of technology for delivery, including:
 - (a) conducting targeted pauses during the period of time from Monday 30 March to Monday 27 April 2020 in the delivery of training to allow those teachers and their administrative and support staff time to transition to connected delivery; and
 - (b) before 30 March 2020, continuously monitoring those classes that have experienced a drop in student attendance rates and prioritising the transitioning of these classes to distance and online where possible.
4. If a teaching program requires face-to-face interaction or practical environments such as labs, kitchens or workshops amongst other areas, directing teachers and their administrative and support staff to follow social distancing guidelines and:
 - (a) reduce the size of the classes by splitting up practical and theoretical activities;
 - (b) encourage regular hand hygiene of participants with measures such as providing hand sanitisers at entry points and allowing time for hands to be washed with soap for at least 20 seconds; and
 - (c) regular cleaning of frequently used surfaces.
5. Making changes to the delivery of face-to-face training that requires close personal contact in line with the Federal Government's guidance about implementing social distancing requirements. This includes:
 - (a) ensuring students do not service the general public if it requires close personal contact, ie., massage, hairdressing, makeup, children's playgroups and hospitality; and
 - (b) directing teachers to refocus their delivery on competencies that do not require close personal contact until further notice.
6. Pausing all non-essential delivery services including:
 - (a) postponing all excursions until further notice;
 - (b) postponing face-to-face events such as graduations, student exhibitions, Excellence Awards, career advisor days, and cultural events until further notice;
 - (c) ceasing staff or student attendance at any planned external events such as career expos, festivals, agricultural shows, or community events; and

- (d) ceasing the majority, if not all, student work placements immediately.
- 7. Providing direction and advice to workers in relation to social distancing and self-isolation requirements in line with published information from the Federal and State Governments which has been made directly accessible from the dedicated COVID-19 web page on the TAFE NSW intranet which is accessible from the homepage by all TAFE NSW workers.
- 8. Providing direction and guidance to workers and students on general hygiene precautions to take to minimise the spread of COVID-19, ie., washing hands with soap for at least 20 seconds, sneezing and coughing into elbows rather than hands, utilising hand sanitiser, etc.
- 9. Setting up a dedicated:
 - (a) WHS telephone hotline for staff and students seeking guidance about COVID-19 and related matters; and
 - (b) People & Safety email address for all staff seeking clarification about COVID-19 and related matters.
- 10. Providing information to all workers and students about reporting of COVID-19, including daily updates for employees.