

MERC Case No: G95 E-1001

Fact Finder:  
Mark Scarr

**IN THE MATTER OF FACT FINDING**

between

Fruitport Community School District

and

Fruitport Instructional Assistants Association - MEA

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Hearing held July 2, 1996  
Fruitport, Michigan

For the Association

Stan Burnell, 9-13 Uniserve Director, MEA  
Mary Ann Zimmerman, 9-E Uniserve Director  
MEA  
Kathy Maka, 5-AB Uniserve Director, MEA

For the School District

Craig Mutch, Esq.  
Allen Winslow, Business Manager,  
FCS District  
Ms Joylene Nelson, Legal Assistant

**Observers:**

Carol Cribley,  
Pamela DiVille,  
Joanne Fielstra, and  
Karen Post;  
All Bargaining Committee Persons

## **GENERAL BACKGROUND**

An Agreement between the Fruitport Community Schools Board of Education and the Fruitport Instructional Assistants Association was entered into for the period July 1, 1992 to June 30, 1995. The parties were unable to negotiate a successor agreement and mutually agreed to continue work during the 1995-96 school year utilizing terms of the immediate past agreement (92-95).

The parties met seven times between June 14, 1995 and April 8, 1996 with the typical meeting lasting two to three hours. It became apparent to the parties that the outstanding issues would not get resolved.

On April 12, 1996, the MEA through Stan Burnell, Uniserve Director, filed a petition with MERC for Fact Finding.

On May 17, 1996, MERC, in accordance with Section 25 of Act 176 of the Public Acts of 1939, as amended, and the Commission's regulations, appointed Mark Scarr as Fact Finder.

Initial contact (May 21, 1996) with the parties indicated they had scheduled another negotiation session for May 29, 1996 and both parties wanted one last opportunity to resolve the issues. Negotiations on May 29, 1996 were not successful, however, the open issues had been narrowed.

A second pre-hearing (May 29, 1996) telephone call was held and it was agreed to set a hearing date for July 2, 1996 at the Fruitport Community Schools' Administrative Offices. Additionally, the parties informed the Fact Finder that the issues in dispute had been reduced from 10 to 7.

## **HEARING**

Both parties stipulated that their bargaining history of the parties indicated that the other eleven (11) K-12 school districts within Muskegon County would be used as comparables. After reviewing the twelve (12) school districts, I found that at 3500 students, Fruitport was the fourth largest of the 12 Muskegon County districts, employs 420 employees, ranks fifth in per pupil revenue, fifth in per pupil expenditures, second in per pupil general fund balance, fifth by rank for 1996-97 State Aid Foundation Allowance (included in SB851) at \$5400.77 per pupil. The statistics also reveal that the Fruitport School District is well run fiscally.

After this review the Fact Finder is in agreement with the parties that the other eleven (11) Muskegon County K-12 school districts form a fair, equitable comparable basis.

Seven issues over which the parties have bargained were presented to the Fact Finder. The issues are described in the Union's petition and stated below.

### **RECORD DAYS**

Current language - none

#### **Association's Proposal**

Article 5, I Record Days

Instructional Assistants shall work their regular hours on all scheduled teacher record days.

#### **Board's Position**

There are no students attending school on these days, therefore, do not need instructional assistants.

## **INSERVICE**

Current Language - None

### Association's Proposal

Article 5 J Inservice

Instructional Assistants shall be provided inservice education those days when teachers are scheduled for inservice programs.

### Board's Response

Employer stated that they did not want to be required to provide inservice on the same schedule as classroom teachers

## **HOLIDAYS**

Current Language - None

### Association Proposal -

Article 9, A. All employees shall receive the following days off work with pay:  
Labor Day (if school starts before Labor Day)  
Thanksgiving Day  
Day following Thanksgiving  
Christmas Day  
New Year's Day  
Good Friday (if school is not in session for any part of the day)  
Memorial Day.

B. Should the holiday fall on a Saturday, Friday shall be considered as the holiday. Should the holiday fall on a Sunday, Monday shall be considered as the holiday.

C. Employees must work their normal work day following and their normal work day preceding the holiday in order to be eligible for holiday pay, unless the employee is on a paid leave day provided by Article 8, or unless otherwise excused by the Superintendent.

### Board's Proposal

Since there are no students on those days, there is no need for this group to have paid holidays.

## HEALTH INSURANCE

### 1992-1995 Contract Language:

#### A. INSURANCE BENEFITS

##### 1. Health Insurance

In the event that State or Federal law (or regulations having the force of law) mandates that the school district provide health insurance paid in full or in part by the school district, the parties shall immediately meet to bargain over the implementation of health insurance.

### Association's Proposal:

#### Article 9 - FRINGE BENEFITS

#### A. INSURANCE BENEFITS

##### 1. Health Insurance

~~In the event that State or Federal law (or regulations having the force of law) mandates that the school district provide health insurance paid in full or in part by the school district, the parties shall immediately meet to bargain over the implementation of health insurance.~~

Effective April 1, 1996, the Board shall provide, without cost to the employee, **MESSA's Super Med 1 protection for a full twelve-month period (for each year of this Agreement) for each employee, his/her spouse and his/her dependents** defined eligible by MESSA, including sponsored dependents. For those individuals elected to be covered by each employee, in lieu of Super Med 1 coverage, MESSA Limited Medicare supplement premiums and Medicare Part B premiums shall be paid on behalf of the employee, spouse, and/or dependents eligible for Medicare, including sponsored dependents. Employees may elect to receive a cash benefit in lieu of health insurance coverage equal to the amount of the Super Med 1 single subscriber premium. The board shall adopt and maintain the section 125 plan provided in appendix B of this Agreement. The board shall make available a tax deferred annuity plan.

Annuity plans shall be limited to the following companies: MEA-FS, VALEK, Washington National, Kemper and Metropolitan. For employees regularly scheduled to work less than nineteen (19) hours per week but at least ten (10) hours per week, the cost to the board shall be limited to no more than the Super Med 1 Single Subscriber premium rate. Employees regularly scheduled to work less than ten (10) hours per week shall apply a pro-rata amount of the Super Med I single subscriber premium rate to his/her Super Med I coverage, or may elect a pro-rata cash benefit.

The annual open enrollment period shall be the month of September. Change in family status will be allowed according to the regulations of MESSA.

**Board's Proposal:**

Does not feel this group of employees should receive medical benefits.

**SALARY SCHEDULES**

1992-1995 Contract Language

Article 10

E. 1994-95 Salary Schedule: (Effective July 1, 1994)

<u>STEP</u>	<u>HOURLY RATE</u>
1	\$7.99
2	\$8.64
3	\$8.97

Association's Proposal:

D. 1995-96 Salary Schedule: (Effective July 1, 1995 and fully retroactive)

<u>STEP</u>	<u>HOURLY RATE</u>
1	\$8.31
2	\$8.99
3	\$9.33 (Note: This is a 4% increase in each step)

E. 1996-97 Salary Schedule: Effective July 1, 1996

Effective July 1, 1996 each hourly rate of the 1995-96 salary schedule shall be increased by the "Percent change to May 1996 from May 1995" as published by the U.S.

Department of Labor, Bureau of Labor Statistics, Chicago, Illinois for the May, 1996 Consumer Price Index, United States City Average, 1982-84 equals 100, All Urban Consumers, All Items.

The amounts as determined by the above shall be rounded to the nearest cent with multiples of .5 cents (\$.005) rounded to the nearest even cent.

The above increases shall be no less than 2.5% and no greater than 3.5%. If the CPI above is not available on the 1982-84 = 100 base, the 1967 = 100 base shall be used.

**F. 1997-98 Salary Schedule: Effective July 1, 1997**

Effective July 1, 1997 each hourly rate of the 1996-97 salary schedule shall be increased by the "Percent change to May 1997 from May 1996" as published by the U.S. Department of Labor, Bureau of Labor Statistics, Chicago, Illinois for the May, 1997 Consumer Price Index, United States City Average, 1982-84 equals 100, All Urban Consumers, All Items.

The amounts as determined by the above shall be rounded to the nearest cent with multiples of .5 cents (\$.005) rounded to the nearest even cent.

The above increases shall be no less than 2.5% and no greater than 3.5%. If the CPI above is not available on the 1982-84 = 100 base, the 1967 = 100 base shall be used.

**Board's Proposal**

**Article 10 - Salary Schedule**

**D. 1995-96 Salary Schedule: (Effective July 1, 1995 and fully retroactive.)**

STEP	HOURLY RATE	
1	\$8.25	(NOTE: This is a 3.2% increase in each step.)
2	\$8.92	
3	\$9.26	

**E. 1996-97 Salary Schedule: Effective July 1, 1996  
(Same as Association proposal)**

**F. 1997-98 Salary Schedule: Effective July 1, 1997  
(Same as Association proposal)**

## **DURATION AND TERMINATION**

### **1992-1995 Contract Language:**

#### **Article 11 - DURATION AND TERMINATION**

- A. This Agreement is effective July 1, 1992 and shall continue until midnight June 30, 1995 at which time it shall terminate whether or not any notice of termination has been served on either party by the other.
- B. The following provisions of the Agreement shall be fully retroactive as if the Agreement would have been in effect on July 1, 1992: Article 8, H; Article 10, C., D., E.; and Article 8, B. Article 5, A, E & G; Art. 8 B; Art. 9, Holidays; Art. 10, Fringe Benefits; Art. 11, Salary Schedule. All other provisions are effective on the date the Agreement is ratified by both parties.
- C. Commencing no later than April, 1995 the parties shall meet and arrange for negotiations of the next collective bargaining agreement.

### **Association's Proposal:**

- A. This Agreement is effective July 1, 1992 1995 and shall continue until midnight June 30, 1995-1998 at which time it shall terminate whether or not any notice of termination has been served on either party by the other.
- B. The following provisions of the Agreement shall be fully retroactive as if the Agreement would have been in effect on July 1, 1995 1992: ~~Article 8, H; Article 10, C., D., E.; and Article 8, B.~~ Article 5, A, E & G; Art. 8, B; Art. 9, Holidays; Art. 10, Fringe Benefits; Art. 11, Salary Schedule. All other provisions are effective on the date the Agreement is ratified by both parties.
- C. Commencing no later than April, ~~1995~~ 1998 the parties shall meet and arrange for negotiations of the next collective bargaining agreement

### **Board's Proposal:**

- A. This Agreement is effective July 1, 1992 and shall continue until midnight June 30, 1995 at which time it shall terminate whether or not any notice of termination has been served on either party by the other.



~~B. The following provisions of the Agreement shall be fully retroactive as if the Agreement would have been in effect on July 1, 1992. Article 8, II, Article 10 C, D and E; Article 8 B. All other provisions are effective on the date the Agreement is ratified by both parties~~

~~{C.}~~ Commencing no later than April, 1995-1998, the parties shall meet and arrange for negotiations of the next collective bargaining agreement.

~~D C.~~ IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

#### **SECTION 125 PLAN**

Both parties stipulated and requested at the start of this hearing that the Fact Finder not render a recommendation on this item as it has been mutually resolved.

The above review of the status of the Fruitport Community School District as it relates to the other eleven (11) Muskegon County Schools as well as a review of the parties' proposals and rationale therein forms the backdrop for the following discussions:

#### **RECOMMENDATIONS:**

##### **RECORD DAYS:**

The Association submitted as support for their request a "Special Education Aide Role Description". This 'description' listed eleven (11) specific duties along with a generalized opening statement. These 11 duties had only three (3) listed that did not have direct student contact (#1, #6, #9) and two of these could involve students (#6, #9). The argument of a need for 'Record Days' for the performance of clerical tasks is portrayed by the Association as 'definitely not a costly item.' Cost is not the deciding issue, the reasonableness and 'inherent

value' to the student, should be fully weighed. Based on these criteria I **recommend** that the Association accept the Board's proposal of No record days.

## **INSERVICE**

The Board of Education position of not wanting to be required to provide inservice on the same schedule as teachers truly begs the question. The employees in question work daily with 'special education' students who by everyone's judgment present special challenges, special needs, special requirements and above all requires an understanding, compassionate human to assist them. I find it very disturbing that the only training described at the hearing was "maybe they received CPR," then maybe not. Whether surrounding districts have inservice or not (Reeth's Puffer does: Article 23 Professional Development 1992-1995 and Ravenna, Article 20 Paraprofessional (1993-1996) is not the controlling issue nor is the cost of such training. The Association's arguments presented during the hearing fairly represent the needs of the students which can be assimilated with the Board's input to determining specific training requirements. I **recommend** that the Association's proposal of 1/2 day (3.3 hours) of training be accepted by the Board. Further, this inservice program shall be planned jointly between the association and the administration. I have not recommended this inservice be provided on those days when teachers have inservice, however, the parties can make that adjustment if they desire.

## **HOLIDAYS**

The Board's position on this issue is that there is no need for the instructional assistants to have paid holidays since there are no children in school on those days, a rather unique argument since the following employees in the Fruitport system have paid holidays even though there are 'no children in school.'

	<u>10-month Employees</u>
Food Service	9
Transportation	6
Clerical	7
Custodial	11
Maintenance	11
<u>AVERAGE</u>	9

The Board argued that the holidays were worth \$.30 an hour in wages and also they have not had difficulty in hiring for these positions. Both of these are valid management arguments taken within 'context.' I do not believe, however, they are sufficient to forever withhold paid holidays from the only remaining Fruitport Community school employees that does not receive holidays. The following chart also indicates that in the Muskegon County school districts only one (1) other district is without paid holidays.

# **MUSKEGON COUNTY SCHOOL DISTRICTS**

## **PARAPROFESSIONAL (AIDES)**

### **NUMBER OF PAID HOLIDAYS**

<b><u>School District, Employee Group</u></b>	<b><u>Article, Page No.</u></b>	<b><u>12 Month Employees (a)</u></b>	<b><u>10 Month Employees (b)</u></b>
<b><u>Fruitport</u></b>		0	0
<b><u>Holton</u></b>	16, pp. 17-18	10	9
<b><u>Mona Shores</u></b>	12, pg. 18	11	10
<b><u>Montague</u></b>	15, pg. 14	10	9
<b><u>Muskegon City</u></b>	6, pg. 8	8	7
<b><u>Muskegon ISD</u></b>	19, pg. 62	9.5	9.5
<b><u>Muskegon Heights</u></b>	16, pp. 12-13	11	10
<b><u>North Muskegon</u></b>		0*	0*
<b><u>Oakridge</u></b>		7*	7*
<b><u>Orchard View</u></b>	13, pg. 25	9.5	8.5
<b><u>Ravenna</u></b>	15, pp. 29-30	11.5	5.5
<b><u>Reeths Puffer</u></b>	16, pp. 17-18	10	7
<b><u>Whitehall</u></b>		6*	6*
<b>AVERAGE</b>		<b>9</b>	<b>7</b>

C=Custodial, M=Maintenance, F=Food Service, T=Transportation, OP=Office Personnel, P=Paraprofessionals

- a) Maximum for 12 month employees, assuming school starts before Labor Day and is not in session on Good Friday.
- b) Maximum for 9 or 10 month employees, assuming school starts before Labor Day and is not in session on Good Friday, also assuming employee does not work or receive holiday pay for Independence Day.

Source: Actual Contract Language except for\*

\* Source: 1995-96 Personnel Survey, Muskegon Area ISD

It is the recommendation of the Fact Finder that that the Board accept the Association's proposal, in total, as it relates to paid holidays, without retroactivity.

## **HEALTH INSURANCE**

The issue of health insurance is a 'costly' item no matter when this benefit is purchased and in spite of the circumstances that surround the purchase. One fact of reality is that all people do need some type of medical protection. The Board offered several reasons why they did not feel a compelling need to furnish health insurance.

- \* Association only provided Super Med I - most expensive - never proposed any other plan
- \* Association did not propose any co-pay
- \* Majority of districts do not provide health insurance

The Board also wanted to continue the current contract language which provides no health insurance unless the federal government mandates same. This, of course, did not happen federally so it truly is inoperative language.

Based on testimony during the hearing, the Board at no time suggested to the Association any alternative plan to MESSA's Super Med I. The Board did not have any conversation on co-pays. Eight (8) of the twelve (12) school districts of Muskegon County provide health insurance, and four (4) do not provide health insurance. In addition, the Intermediate School District also provides health insurance to their paraprofessionals.

The only group of Fruitport Community School employees who do not receive medial benefits are the instructional assistants. This group of employees

typically work 6.5 hours/day, 172 days per school year, and typically 1118 hours yearly at a \$10.96 average hourly wage which is #6 of 6 within the district. The hourly compensation level has a top level of \$19.50 and works its way down to \$10.96. The ranking of average insurance benefit by annual cost at Fruitport is as follows:

1. Bus Drivers	\$6195.36
2. Principals	6090.60
3. Clerical Employees	6079.20
4. Teachers	5968.92
5. Maintenance Employees	5502.96
6. Custodial Employees	5502.96
7. Food Service Employees	4379.28
8. Instructional Assistants	32.40

If the Association's request for health insurance was granted, the amount for assistants would move up to \$4020.22 , still #8 out of 8 groups receiving benefits.

The Board of Education in their presentation indicated that only one (1) employee out of a unit of 30 took advantage of Article 2 A-5 of the 1992-95 agreement which will allow employees at their own expense to participate in MESSA insurance programs not paid for by the Board (in whole or in part) provided MESSA allows such participation.

The Board further testified that in a survey conducted by the Association on 1-9-96, 11 of the 27 employees surveyed would choose the "cash" option if they had the choice.

The Board interprets these two (2) events as proof that members of the unit do not need or want medical coverage. I am not convinced that is an

appropriate conclusion in regards to health insurance. I am sure there are two wage earners in many of these families and the total impact on health care could improve.

We should not, however, down play the integral part the 'instructional assistants' are of the Fruitport Community Education System. Comparable worth of service to the educational community will be perceived differently depending on each of our individual needs and desires. It is hoped we recognize and value all employees to whom we entrust our children. Health care is not the sole criteria that can show recognition, awareness, and appreciation of a job 'well done.' The 'Instructional Assistants' in this district without exception, are on the bottom of the pile. Someone is always last, however, this group does not appear to have received many benefits for their skill and daily input into the educational expertise of this community.

The Fact Finder has not heard or seen any definitive documentation that would support the Board's position of providing no health insurance. Therefore, the Fact Finder is **recommending** the Association's proposal on Health Insurance be accepted and implemented by the Board with no retroactivity to the just completed 1995-96 school year.

## **SALARY SCHEDULES**

The two parties have agreed on salary schedules for the school years of 1996-97 and 1997-98. The issue is a retroactive salary adjustment for the 1995-96

school year. The issue is a proposed 3.2% increase by the Board and a proposed 4.0% increase by the Association. The difference is 0.8%.

A review of internal Fruitport comparable history on wages indicates that basically all units receive similar % increases.

### **INTERNAL COMPARABLE HISTORY**

#### **FOR FRUITPORT EMPLOYEES**

##### **History of % increases**

<b>BARGAINING UNIT</b>	<b>Current Contract Expiration Date</b>	<b>1993/1994</b>	<b>1994/1995</b>	<b>1995/1996</b>	<b>1996/1997</b>	<b>1997/1998</b>
**Transportation	6-30-98	4.0	4.0	3.2	2.5 - 3.5	2.5 - 3.5
Maintenance						
Food Service	6-30-98	4.0	4.0	2.5	2.5	2.5
**Office/Clerical	6-30-98	4.0	4.0	3.2	3.0	2.5 - 3.5
Parapros/Teacher Aides	6-30-95	4.0	4.0	3.2/4.0		
**Teachers	8-24-99	3.5	3.5	3.5	2.75	2.75 - 3.0

\*\*\*% not established until determination of CPI

Based on the above historical pattern of wage increases and no compelling reason offered by the Association, I see no need to go to 4%. The Fact Finder is **recommending** that the Board of Education proposal be accepted by the Association and implemented.



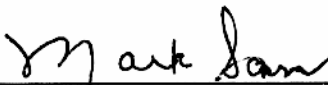
## DURATION AND TERMINATION

Both parties agreed during the hearing that the following paragraph resolves this issue:

"This Agreement is effective July 1, ~~1992~~ 1995 and shall continue until midnight June 30, ~~1995~~ 1998 at which time it shall terminate whether or not any notice of termination has been served on either party by the other."

In summary, the Fact Finder compliments the parties on their obviously good relationship and the excellent acceptance of the trust in caring for the education of the Fruitport community. The recommendations above will hopefully assist both parties in the continued delivery of an excellent educational system to all segments of the community. As I indicated above, the integrity of the fiscal policy is excellent and the extra burden that may result from my recommendations should not be difficult to assimilate.

Dated: 7-24-96

  
\_\_\_\_\_  
Mark Scarr,  
Fact Finder