MICHIGAN EMPLOYMENT RELATIONS COMMISSION

PORT HURON AREA SCHOOL DISTRICT, Petitioner, -and- **PORT HURON EDUCATION ASSOCIATION,** Respondent. _______________________________________/	MERC Case No. D10 G-0736 Kathleen R. Opperwall MERC Fact Finder

FACT FINDING REPORT AND RECOMMENDATIONS

A fact finding hearing was held on May 18 and 20, 2011, in Port Huron, Michigan, under the provisions of Michigan's Labor Relations and Mediation Act (MCLA 423.25). The Port Huron Area School District (hereafter the District) was represented by Gary A. Fletcher of the law firm Fletcher Fealko Shoudy & Francis, P.C. The Port Huron Education Association (hereafter the Union or PHEA) was represented primarily by Gerald E. Haymond of the Michigan Education Association. The purpose of the fact finding procedure is to provide factual findings and non-binding recommendations to assist the parties in reaching agreement on a new contract.

The bargaining unit includes the classroom teachers and other identified professional employees of the District. The parties' previous collective bargaining agreement was a three-year contract covering the period from August 16, 2007 through August 15, 2010.

The parties were able to reach agreement on many issues, and submitted only the following three issues to fact finding:

1. Ability to pay.
2. Salaries.

3. Health care benefits.

After the close of the hearing, the parties revised their respective proposals, partly in response to new Michigan legislation which took effect while the fact finding was in progress. The revised proposals brought the parties' somewhat closer together. The parties filed their post-hearing summaries and proposed findings of fact on June 15, 2011.

Findings of Fact

The following findings of fact are based upon the testimony and exhibits offered at the hearing:

1. The Port Huron Area School District, like most school districts in Michigan, is experiencing serious financial difficulties. The District's expenditures have significantly exceeded its revenues over the last four years. During this four year period its fund equity balance has dropped from $23.5 million at the end of the 2006-2007 school year to $10.5 million at the end of the 2010-2011 school year. This trend cannot continue without putting the District in danger of going into deficit status with the prospect of an emergency financial manager being appointed.
2. There are a number of causes for the financial decline, many of which are beyond the District's control. Enrollment has declined steadily over the last ten years, from a pupil count of 12,192 in 2001, to a pupil count of 9,986 in 2011, a decline of 18.1%. The District lost about 500 students last year, and projects to lose approximately another 400 next year. Because the State of Michigan funds its schools primarily on a per pupil basis, this ongoing loss of students is having a very significant impact.
3. Retirement benefit costs and medical insurance costs have both increased dramatically over the last few years. On a District-wide basis, including all employee groups,

retirement and health benefit costs now comprise 24% of the District's budget, compared to only 17% in 2003.

4. Prior to 1994, K-12 school districts in Michigan were funded primarily by local property taxes. In 1994 Michigan voters approved Proposal A, which completely changed the financial landscape for K-12 districts. Proposal A established a School Aid Fund which is funded in part by sales tax revenues.
5. For the four years from 2005-2006 to 2009-2010, the District's per pupil allowance increased by a total of only 6.26 percent. For the 2009-2010 school year the foundation allowance was $7,417 per pupil (PHEA Ex I, p.4)
6. Up until 2010, the School Aid Fund was applied only to K-12 districts. However, more recently, the Michigan legislature began re-directing some of the School Aid Fund to the State's universities and community colleges instead of K-12 districts. This has resulted in a decrease in the per pupil foundation allowance going to K-12 districts. For 2010-2011, there was a $170 per pupil decrease, which was offset by federal grant money. For 2011-2012 this federal grant money will no longer be available. In addition, the foundation allowance has been reduced by another $300 per pupil, although $217 of this amount may be added back on a one-year basis. The result is that the District's foundation allowance for 2011-2012 will likely be $253 per pupil less than the amount it received for 2010-2011. With enrollment projected at 9,600 for 2011-2011, this results in a $2.4 million reduction in revenue due to the reduced foundation allowance per pupil.
7. Erratic funding by the State, with frequent adjustments, has made it very difficult for school districts to plan their budgets or project what their revenue will be.

8. The District has acted responsibly and taken many steps to reduce expenses. These include, among other things, closing buildings, laying off staff, and getting concessions from other bargaining units.

9. PHEA member salaries totaled $43.3 million for the 2010-2011 school year. This is almost 78% of the $55.7 million the District paid in salaries for all its employees. It is also 43% of the District's total budget, which was just under $100 million for the 2010-2011 school year. An increase or decrease in PHEA salaries will therefore have a significant impact on total expenses.

10. Employee costs including benefits for all District employees are approximately 85 percent of the District's budget. Statewide, on the average, for every $1.00 school districts spend on salaries, an additional $ .55 needs to be added for combined benefits and taxes.

11. The District spent $10.4 million on health care coverage for PHEA members in 2010-2011. This covered 568 PHEA members, of whom 365 received full family coverage, at an annual cost of $20,241 per family. The MESSA health insurance premiums for PHEA members went up 19 percent in 2009-2010, and 20 percent in 2010-2011. The increase for the 2011-2012 year will be 5.9 percent.

12. For 2011-2012 the District will be required to make retirement contributions which equal 24.46 percent of the PHEA salaries. This percentage is set by the State, and the District has no control over it. For 2012-2013 this will increase to 27.3 percent of salaries.

13. Under the previous three-year contract, PHEA members received 2.25%, 2%, and 2% salary increases. The parties completed the 2010-2011 school year under the expired contract with the 2009-2010 salary rates still in effect. Step increases did occur. The

salary schedule currently provides a starting salary at the bachelors level of $36,044. The bachelors maximum at the 11th step is $66,085. The Masters maximum is $71,972. The Masters plus 30 maximum is $77,501. Most of the PHEA members have enough years with the District to be at or near the top of the steps. The parties indicated that the average salary of PHEA members is $69,975.

14. As the District's finances have deteriorated over the last few years, other bargaining unit employees in the District have taken concessions, including pay freezes, furlough days, and less expensive medical coverage. The furlough days have ranged from 5-6 for the Teamsters unit, to 2 for the Building Administrators unit.
15. The District did essentially balance its budget for 2010-2011 by achieving cost savings of $7.5 million, of which approximately $2 million was due to a high level of retirements. However, these cost savings were offset by a $2.8 million decrease in revenue due to the enrollment decline, and $5.5 million in cost increases for retirement and health benefits, plus step increases. (Dist. Ex. II, page 9).
16. It is my finding and conclusion that ability to pay is a real issue. My analysis therefore is based more on ability to pay than on a comparison with what is occurring in the "comparables" used by the parties in preparing their exhibits. The comparables proposed by the District were for other school districts in older medium-sized cities with declining pupil counts. It is my conclusion that they were more comparable than those proposed by the PHEA, which were for more prosperous suburban districts with fairly stable pupil counts. However, the District is in a significantly better position than two of its comparables, the Bay City and Saginaw districts, in terms of its fund balance. Port Huron has a fund balance of just over 10 percent, versus less than 1 percent for those two districts.

17. During the last year the District's central office administrator, building administrator and teamster bargaining units have switched to a high deductible health plan with Priority Health, coupled with a health savings account (HSA), at a considerable savings for the District.

18. Priority Health is owned by the Spectrum Health system. It started in Grand Rapids where it has its strongest presence. It has been growing in recent years in the southeast Michigan region. All three of the Port Huron area hospitals participate in the Priority Health network, as do the Cleveland Clinic and Mayo Clinic. The University of Michigan Hospitals do not participate in the Priority Health network.

19. The Priority Health plan achieves some of its savings by managing prescription drug use more aggressively. It applies a "step therapy" approach, which requires that less expensive drugs be tried first before more expensive drugs can be covered. Priority Health also requires prior authorization for more procedures and tests, including MRIs and CT scans. Michael Green of Gallagher Benefit and Services testified at the fact finding hearing that the expected savings are due to: Priority Health being "more managed;" an assumption that the HSA structure will lead to some behavior changes; and the District getting the benefit of a low starting premium based on Priority Health's favorable experience with other HSA plans.

20. It was not disputed that the MESSA coverage is superior coverage. The issue is the cost of the MESSA coverage. The MESSA premiums for the District increased 19 percent in 2009-2010 and 20 percent in 2010-2011. This was partly due to the fact that MESSA was required under recent State legislation to switch larger groups to being "experience rated" based on their own claims experience. Previously the District's premiums had been "community rated," i.e. combined with other districts.

The actual claims for PHEA members have been higher than the average for MESSA. Sarah Neyaz, a health economist with MESSA, testified at the hearing that the bargaining unit was a "high utilization population." In general, medical costs go up with older populations. After the large premium increases for the past two years, the MESSA rates for 2011-2012 now reflect this bargaining unit's own claims experience.

Proposals of the Parties

The following is a summary of the revised proposals which the parties made after the conclusion of the hearing portion of the fact finding.

The District's Proposal

1. Salaries - reduce all salaries by 10 percent and maintain that reduction throughout the term of the contract, together with freezing all step increases and all increases based on obtaining additional degrees.
2. Medical Coverage - give PHEA the option of either: (a) switching to a high deductible plan (HDP) with Priority Health coupled with a Health Savings Account (HSA) with the District funding the $1,500/$3,000 deductible, and the members paying 10% of the cost; or, (b) retaining MESSA Choices coverage with the members paying the difference between the costs of the MESSA option and option (a) above.

The Union's Proposal

1. Salaries - freeze salaries and step increases for the next two years, and implement two unpaid furlough days per year which will be taken on snow days; provided that, if the per pupil foundation allowance for 2012-2013 increases above that received in 2010-2011, one-half of the increase will be distributed to the PHEA members at whatever percentage that yields.

2. Medical Coverage - MESSA Choices with $300/600 deductible, $10 office visit, and RX Saver Drug Program, with the employees paying 20 percent of the premium cost.

Fact Finder Recommendations

These are my recommendations as the fact finder:

1. Salaries.

   a. For the 2011-2012 school year, freeze step and degree increases; implement 2 unpaid furlough days to coincide with the first 2 snow days; and reduce salaries by 2 percent from the 2009-2010 salary schedule. Provided that, teachers whose salaries are under $50,000 can receive step increases up to a $50,000 salary, and the 2 percent salary reduction will not be applied to the extent it would reduce a teacher's salary below $50,000. The unpaid furlough days will apply across the board.

   b. For the 2012-2013 school year, continue the above. Provided that, if the per pupil foundation allowance increases for 2012-2013 in comparison to 2010-2011, then one-half of the increase will be allocated to PHEA salaries on a pro rata basis and paid at the end of the school year.

2. Medical Coverage. Adopt the PHEA proposal for MESSA Choices coverage with members paying 20 percent of the premiums.

Reasoning behind Recommendations

Current information indicates that the District will be losing a significant amount of its State funding from the School Aid Fund. This is partly due to falling enrollment and partly due to reduction in the per pupil allowance. For 2011-2012, the enrollment loss is projected at about 4 percent. This enrollment loss should be substantially offset by the planned reduction in teaching staff. The District is projecting 25 fewer teachers, which is about a 4.4

percent reduction. This will leave 543 teachers, in comparison to 568 for the 2010-2011 school year. For future years, the District will need to continue reducing staff to keep pace with enrollment losses.

The loss due to the reduction in the foundation allowance per pupil will be about $2.4 million for the 2011-2012 school year, per the District's calculations ($253 per pupil x 9,600 enrollment). It is reasonable to ask the PHEA members to share in a good portion of this loss.

Each furlough day is about .9 percent of compensation, so two furlough days would translate to about 1.8 percent of compensation. Added to the 2 percent salary reduction, this would come to about 3.8 percent of compensation. On a PHEA salary base of about $42 million, this would amount to about $1.6 million in savings on salaries. With retirement contributions set at 24.46 percent of compensation, this would result in another approximately $400,000 savings in retirement contributions. With FICA (Social Security and Medicare) at 7.65 percent, this would also result in savings here of about another $120,000. This brings the salary, plus retirement, plus FICA savings to about $2.1 million.

It appears that there are about 20 teachers who are at or below the $50,000 salary level on the salary schedule. Allowing them to retain or achieve $50,000 salaries would have a relatively minor effect. My thinking here is that the overall impact would otherwise be too severe on beginning teachers making less than $50,000, when the 20 percent sharing of medical premiums is taken into consideration.

My proposal for 2012-2013 includes applying one-half of any increase in per pupil foundation allowance to the PHEA salary schedule. So, for example, if there is an increase of $100 per pupil, $50 of this would be applied to PHEA salaries. The dollar amount would be calculated, and then applied across the PHEA salary base at whatever percentage that yields. So, for example, if half the increase came to $400,000, and total PHEA salaries for the year were $40 million, then each PHEA member would get a year-end payment equal to 1 percent of his or her salary for that year.

For medical insurance, the District's costs under the PHEA proposal will be significantly lower than its 2010-2011 costs. PHEA Insurance Exhibit 3 (as modified 6-15-11 to reflect the PHEA proposal of 20% premium payment by members) shows a savings to the District of $3.3 million as compared with 2010-2011. PHEA members with full family coverage will be paying $3,773 per year toward their coverage. For a teacher with a $70,000 salary this effectively represents a 5 percent reduction in pay. For a teacher the bottom of the salary scale this effectively represents a 10 percent reduction in pay. This is a very significant shifting of costs from the District to the PHEA members.

I am recommending staying with MESSA medical insurance at this time. With the 20 percent premium sharing, the cost to the District gets closer to the District's cost under its Priority Health proposal. I think it would be disruptive to switch to Priority Health. In particular, many employees on established medication regimens would have their medications changed, under the "step therapy" approach of Priority Health. The current MESSA premiums are based on the District's own claims experience, which in turn is largely based on its demographics. There is a distinct possibility that after several years of actual claims experience the Priority Health premiums would begin to approach the MESSA premiums.

I did not see the need for the more drastic salary reductions which the District proposed. The District's 6/1/11 Long Term Budget Projection shows revenue dropping from $99 million in 2010-2011, to $91 million in 2011-2012, and $85 million in 2012-2013, before beginning to rise again. It was not entirely clear why revenue would fall this much.

For 2012-2013, the Projection shows an additional $68 per pupil loss in foundation allowance. This amount multiplied by the projected 9,200 pupils would result in $639,000 in lost revenue. The loss of 200 students would account for another $1.4 million in lost revenue. However, the budget projects a $5.6 million drop in revenue for that year. It is not clear why the District is projecting such a large loss of revenue.

Under the District's proposal, with its proposed 10 percent salary reductions, there would actually be a budget surplus of $2.4 million in the 2011-2012 year. The projection shows a $503 per pupil loss from the foundation allowance. However, the calculations in the District's Summation show an overall loss of only $253 per pupil for 2011-2012.

Essentially, the District is losing revenue due to two main causes: enrollment losses, and reductions in the <u>per pupil</u> allowance. The revenue lost due to falling enrollment is greater than that lost due to the per pupil reductions. The District will need to continue to downsize if its enrollment continues to fall. It should not expect those enrollment-related losses to be absorbed by salary reductions. It is reasonable to ask PHEA members to share in the lost revenue which is caused by decreases in the <u>per pupil</u> allowance. Those do not, however, approach the 10 percent level. It is also reasonable to ask PHEA members to pay more of the costs of their benefits, as those costs continue to escalate. The 20 premium sharing for medical benefits does this.

Dated: June 30, 2011

Kathleen R. Opperwall, Fact Finder