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STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
EMPLOYMENT RELATIONS COMMISSION

In the matter of fact-finding between:

FLINT COMMUNITY SCHOOLS,
public employer

and

MERC Case No. D08 C-0341
Fact Finder Stuart M. Israel

UNITED TEACHERS OF FLINT, INC., MEA/NEA,
union

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# FACT FINDER'S REPORT AND RECOMMENDATIONS

United Teachers of Flint, Inc., MEA/NEA ("UTF") filed its petition for fact finding dated March 13, 2009. The School District of the City of Flint (the "District") filed its petition for fact finding dated March 20, 2009. Both petitions are addressed in *Flint Community Schools and United Teachers of Flint*, MERC case no. D08 C-0341. The fact finder was appointed by the Michigan Employment Relations Commission on May 27, 2009, pursuant to the Labor Mediation Act and the Public Employment Relations Act.

**1.**

The subject of the fact finding is the parties' collective bargaining aimed at replacing their 2005-2007 collective bargaining agreement. The parties agreed to extend that collective bargaining agreement to August 31, 2008 and, beyond that, day-to-day, subject to termination by either party on 14 days written notice to the other party.

The parties have made extensive efforts to resolve their differences on a new collective bargaining agreement. They met with and without mediation assistance on multiple occasions in 2008 and 2009, before, during, and after the telephone conferences, in-person discussions, pre-hearing statements, and the evidentiary hearing undertaken in the fact finding process. The parties presented witnesses and extensive information in written exhibits at the November 11 and 12, 2009 hearing conducted by the fact finder. The parties followed up with post-hearing proposed findings of facts and conclusions, exchanged between the parties by the fact finder on December 9, 2009.

The parties agreed to limit the fact finding process to economic issues which, principally, involve salary, healthcare, and duration.

**2.**

While negotiations and the fact finding process were in progress, the District made a change in healthcare for UTF-represented District employees. Healthcare had been provided through the Michigan Education Special Services Association ("MESSA"), a non-profit organization with ties to the Michigan Education Association, UTF's parent labor organization. MESSA provides healthcare coverage services to a substantial number of Michigan school district employees under collective bargaining agreements and has done so in the District for a number of years. On September 16, 2009, however, the Board of Education resolved that the District would become the healthcare policyholder. This resolution necessitated altering the status quo. MESSA, according to its standard practice, had been the policyholder for the healthcare coverage provided to UTF-represented District employees under the collective bargaining agreement. Change was required to implement the Board of Education resolution.

The District states that it is its prerogative under the Public Employment Relations Act (PERA), MCL 423.215(3)(a), to designate itself as the policyholder for healthcare coverage. The District notified UTF of the Board of Education resolution. It appears that MESSA requires that it remain the policyholder as a condition of continued healthcare coverage under its plans, at least for the District, so that the consequence of the Board of Education resolution was to necessitate the substitution of a different healthcare arrangement, one compatible with the District's new role as a policyholder. The District discontinued its relationship with MESSA and began providing healthcare to the UTF-represented bargaining unit through HealthPlus of Michigan, Inc., effective November 1, 2009. The implemented HealthPlus coverage, the District reports, "mirrors" the coverage that had been provided to the UTF-represented bargaining unit through MESSA before November 1, 2009.

UTF responded to this situation by filing an unfair labor practice charge against the District. The charge is pending at MERC, scheduled for hearing in 2010. In addition, UTF sought an injunction in Genesee County Circuit Court, presumably to preserve the status quo regarding healthcare pending resolution of the unfair labor practice charge. While the details of the unfair labor practice charge and the related court action were not presented in the fact finding process, they were generally addressed as background to consideration of the parties' positions on healthcare in the bargaining process. The District advised that the injunction was denied on October 30, 2009 and that the "mirror" HealthPlus coverage was implemented and remains in force.

While the application of MCL 423.215(3)(a) and the issues encompassed by the injunction and unfair labor practice proceedings are beyond the fact finder's purview, they nonetheless have an impact on the parties' bargaining positions and provide necessary context for the fact finding process.

**3.**

The fact finding process provides an opportunity to clarify and facilitate the parties' efforts to resolve their collective bargaining differences. The fact finder has no decision-making authority and no ability to impose a resolution of differences. Rather, the fact finder offers a neutral perspective based on information presented by the parties. That perspective, if things go as intended, will aid the parties in resolving their differences through collective bargaining.

The components of a fact finder's report are prescribed by Rule 423.435. The fact finder is to make findings regarding the information and issues presented by the parties and recommendations for resolution of differences. Ideally, the parties will employ the fact finder's disinterested perspective and return to negotiations in an effort to bridge their differences. The best resolution of differences is that negotiated by informed parties, pursuing their mutually-beneficial interests in a practical and fair collective bargaining agreement that will define their relationship into the future.

**4.**

The District includes 18 elementary schools, two middle schools, four secondary schools (in three buildings), Mott Adult High School, various early education programs, and other programs. In recent years both the population of Flint and the District's enrollment have declined. The District reports that between school years 2005-2006 and 2008-2009 enrollment went from 18,193 students down to 13,979, a decrease of 4,214 students. The District reports student enrollment declines of 5% in 2005-2006, 8% in 2006-2007, 9% in 2007-2008, and 11% in 2008-2009.

UTF represents more than 1,000 District employees, including K-12, Head Start, and adult education teachers, speech therapists, social workers, librarians, physical therapists, and support personnel. (UTF documents estimate bargaining unit membership variously at 1,150 and 1,100; District documents estimate membership variously at 1,086, 1,050, and 1,150). Over the 2002-2009 period, UTF reports, the District workforce has been reduced by 273.85 teachers (measured in full time equivalents, "FTEs"), a 21% decline.

**5.**

The District's principal source of general fund revenue is state "foundation grant" money provided under Michigan's School Aid Act. The annual foundation grant is determined by a formula, multiplying the state foundation allowance by a weighted average of student enrollment calculated on mandatory attendance counts taken in February (25% weight) and September (75% weight). According to the District auditor's report, the foundation grant—unrestricted state aid—accounted for 51% of District revenue in 2009. Other sources of revenue include federal and state funds restricted for designated purposes (35% of total revenue in 2009), property taxes (7% of total revenue in 2009) and miscellaneous sources, like fundraising and grants (7% of total revenue in 2009).

The District reports that the single largest financial obligation to be met with general fund revenue is employee compensation, with salaries accounting for 56% of general fund expenditures and benefits accounting for an additional 28%, for a salary and benefits total of 84% of general fund expenditures in 2009.

The District reports that over the 2004-2009 period, there was an increase in the state foundation allowance, and that grants and other District revenue were up, but, due to reduced student enrollment, there was a 20% net reduction in total general fund revenue, from $213,400,000 in 2004 to $171,153,000 in 2009.

The District projects that there will be a 1,700 student enrollment decrease for the current year which, at the anticipated foundation grant level, would translate to a $13.6 million annual loss in general fund revenue. The District plans for a decrease in the per-pupil foundation allowance based on the state's 2009-2010 budget.

The District also expresses concern about the reduction of its general fund balance as a percentage of general fund revenue, indicating that a reserve level of at least 10% is the "best practice." Over the past few years, despite increases in the per-pupil rate foundation grant rate and increased grant money, and despite significant cost reductions implemented by the District, the general fund balance has been reduced and, the District reports, has a deficit of approximately $3 million. This deficit is masked, the District reports, because the District fund balance is presented in the aggregate with the Genesee Area Skill Center (GASC) fund balance, and so reflects a positive number. The GASC is a vocational training facility for secondary-level students operated by the District and the Genesee Intermediate School District and is separately funded by a countywide millage. GASC is staffed by UTF-represented District employees. But for the aggregation of the two fund balances, the District reports, the District fund balance would reflect the near-$3 million deficit. A fund balance deficit, the District says, would subject the District to the state law requiring a state-supervised deficit reduction plan.

The District reports that it has no viable alternative revenue sources to address its diminishing finances. The District reports that it is at the legal maximum for millage funding. The only meaningful alternative to millage funding, the District reports, is the issuance of bonds, which would require approval of District voters. The District suggests that bond issuance is not a practical alternative due to the distressed economic conditions in the District and to restrictions on bond issuance. The District writes, "under Proposal A, school districts may hold bond elections only to construct or make improvements to buildings, not to pay salary, employee benefits or other operating expenses." In addition, the District points out that the last bond issue request made by the District, in August 2000, was rejected by the voters.

The District now projects a $4 million deficit for 2009-2010. Based on its projections, to "break even" the District says it needs to cut $15 million in financial obligations over the next two years.

The District reports that it anticipated revenue reduction because of decreasing student enrollment. In response, the District reports it implemented decisions that reduced expenses. These included closing 10 buildings, one a high school; changing its bus system; reducing clerical staff; and eliminating 12 administrative positions. The District at one point projected that these reduced expenditures would result in a $200,000 surplus for 2009-2010 but now projects that the reduction in per-pupil foundation grant funding will result in a substantial deficit.

It is this context of financial distress, the District says, that justifies the District's salary and healthcare proposals.

6.

UTF does not contest the District's account of decreased and decreasing student enrollment or past and anticipated revenue reduction caused by the combination of lower enrollment and reduced per-pupil funds from the state. However, UTF questions the District's decision-making and spending priorities and suggests that the District can and should alter its financial behavior to ensure its ability to accommodate UTF's salary and healthcare proposals.

UTF reports that the District's enrollment declined by 33% between 2002-2003 and 2008-2009, from 21,040 students to 14,044. In this period, UTF calculates, the District reduced its teacher workforce by 21% but increased its administrative workforce by 42%. These figures represent a reduction of almost 274 teachers and an increase of 31 administrators (measured in FTEs). UTF also observes that the District transferred $6.65 million to capital projects, food service, and athletics, an amount that if properly allocated would have avoided the general fund balance deficit described by the District. UTF suggests that some of these funds would have been more appropriately applied to instructional personnel costs. Better decision-making and financial allocations in the future, UTF suggests, would enable the District to pay for UTF's salary and healthcare proposals, which UTF believes to be reasonable, fair, responsible, and in the mainstream when measured against comparable school districts.

7.

As noted, the parties have continued bargaining during the fact finding process. Both parties have made efforts to address their differences and reportedly have reached agreement on a number of non-economic issues. Their principal differences remain economic, primarily salaries and healthcare. These economic differences are the subject of the fact finding process.

The parties exchanged revised economic proposals shortly before the November 11 and 12 fact finding hearing. UTF presented proposals on November 9. The District presented proposals on November 10 and, as a product of the parties' discussion in connection with the November 11 fact finding hearing, added to its proposals on November 12. These November 2009 proposals, summarized below, were the subject of the fact finding hearing.

**UTF's November 9, 2009 proposals.**

1. Duration. A collective bargaining agreement effective upon execution, in force through August 31, 2011.

2. Salary.

   A. A retroactive salary increase of 1% for 2008-2009.

   B. A 1% salary increase for 2009-2010.

   C. A 1% salary increase for 2010-2011.

3. Healthcare and other fringes.

   A. Resume MESSA Choices II Pak Plan, with modifications to implement $10 office visit co-payment and $10/$20 prescription co-payment.

   B. Employee-paid premiums of $1,575 annually ($787.50 annually for adult education teachers) paid in 21 installments through payroll deduction.

   C. All other fringe benefits remain unchanged.

**The District's November 10 and 12, 2009 proposals.**

1. Duration. A collective bargaining agreement effective upon execution, in force through August 31, 2013.

2. Salary. A 1% "top of scale" bonus for K-12 teachers in each of the following school years: 2010-2011, 2011-2012, and 2012-2013.

3. Healthcare and other fringes.

A. Bargaining unit members may select one of the following HealthPlus plans:

(1) PPO Enhanced Plan 3E, which includes a \$250/\$500 deductible, \$10 office visit co-payment, and \$20/\$40 prescription co-payment; or

(2) HMO Plan Z1, which includes no deductible, \$10 office visit co-payment, and \$5/\$10 prescription co-payment; or

(3) Augmented PPO Enhanced Plan 3E, which includes a \$250/\$500 deductible, \$10 office co-payment, and \$10/\$20 prescription co-payment.

B. For the PPO Enhanced Plan 3E and the HMO Plan Z1, the District will contribute 90% of monthly premium; employee will pay 10% of monthly premium through payroll deduction. For the Augmented PPO Enhanced Plan 3E, the District will contribute 85.8% of the monthly premium; employee will contribute 14.2% of the monthly premium through payroll deduction.

C. All other fringe benefit levels remain unchanged.

**8. The District's rationale.**

Underlying the District's proposals is its argument that it needs to operate with fiscal prudence and within its means, that to do so it must reduce and control expenditures, and that these responsibilities necessitate its proposed salary and healthcare changes. These changes, the District says, are a necessary response to the mix of the continuing decline in already-diminished student enrollment, revenue reduction, and the inescapable facts that the District has a budget in which 84% of all expenditures are devoted to salary and employee benefits and that the District has no viable alternatives to raise revenue and no choice but to operate responsibly by reducing salary and benefit costs.

Added to these overarching concepts, the District explains, is the Board of Education decision to exercise its right to designate the District as the healthcare policyholder. This, the District says, will permit it to acquire and act on experience and claims data and ensure plan compliance and better cost control. This is something, the District says, it has been unable to do effectively while healthcare was provided through MESSA. With HealthPlus, the District says, it will be able to monitor plan compliance and costs on an ongoing basis.

In addition, the District expresses dissatisfaction with MESSA. This is based on the District's understanding that MESSA's policy is to provide experience data to the District only as required by law. The District reports on MESSA's unwillingness, and to some extent, inability to provide "claims experience data, demographics and other plan information for group life, long term disability and dental insurance" for the UTF-represented unit. The District's dissatisfaction also is based on the District's view that MESSA has engaged in "mismanagement" and added to costs by, contrary to the healthcare plan, allowing participants to obtain over-the-counter medicines as if they were generic prescription medicines and by inappropriately waiving participant co-payment obligations.

The District also, notes that the premium cost of MESSA coverage was set to rise by 20% for 2009-2010, a cost increase of approximately $3 million for that year. The cost of the HealthPlus "mirror" coverage implemented in November 2009, the District reports, is "essentially" the same as the 2008-2009 cost of MESSA coverage. Thus, the District points out, even the change to the current HealthPlus "mirror" coverage, which provides coverage broader than the HealthPlus coverage proposed by the District, would avoid the 20% increase for 2009-2010 planned by MESSA, saving approximately $3 million in expense on an annual basis.

The District also says that it desires uniformity in employee healthcare coverage. The District points out that the HealthPlus PPO and HMO plans proposed for UTF-represented employees have already been negotiated with District bargaining units represented by SEIU. The District points out that these plans have been implemented for SEIU-represented employees as well as for exempt administrators, executive secretaries, professional and technical personnel, and others. The District suggests that District-wide uniformity in healthcare will simplify administration and reduce costs.

The District justifies its salary proposal—in essence, a freeze ameliorated by 1% "top-of-scale" bonuses—by pointing out that its proposal will ensure added compensation for teachers in later contract years, either by longevity-based step increases or, in 2010-2011, 2011-2012, and 2012-2013 for those at the maximum step, by 1% bonuses.

The District asserts that its salary proposal is both needed and fair in light of the District's financial distress and that it is reasonable, putting UTF-represented employees in salary steps that are within a range of between 5% above and 5% below average minimum and maximum salaries for teachers with bachelor's and master's degrees employed during 2008-2009 in Genesee County school districts.

In addition, the District asserts, its proposals will be manageable within the District's anticipated revenue while UTF's proposals would not be affordable. The District presented its analysis of the costs associated with UTF's three-year proposals with 1% wage increases for 2008-2009 (with wage retroactivity), 2009-2010, and 2010-2011. The District concludes that UTF's proposals cost $9,526,580.84 over that three-year period, ensuring a deficit in each year. In contrast, the District concludes, its proposals over the same three-year period would add cost of $743,686.49. The District analysis also concludes that the total added cost of its five-year proposals, which feature end-loaded "top of scale" bonus payments, is less than the three-year cost of the UTF proposals. The District's computation is that the UTF proposals would cost $9,526,580.84 for three years in comparison to the $9,166,212.69 cost of the District proposals over five years. One rationale for end-loading is the District's expressed hope that attrition through retirement will over time reduce expenses and delay or eliminate any need to lay off teachers. The District suggests that in light of its financial circumstances and declining revenue prospects, the UTF proposal is not sustainable and that the District's proposal is appropriate.

**9. UTF's rationale**

UTF supports its healthcare proposal as resuming "the standard array of health and health-related benefits," including healthcare and long-term disability provided through MESSA. UTF presented testimony and information indicating that MESSA is knowledgeable and that it provides excellent service to participants and comprehensive coverage, including an exclusive two-year healthcare premium waiver for those on long term disability, at reasonable cost in part due to economies of scale and MESSA's experience in many school districts across Michigan. UTF recognizes the District's difficult financial circumstances and says that it has reasonably responded by proposing $10/$20 prescription co-payment in place of the current $5/$10 co-payment, a $10 office visit co-payment, and a premium co-payment of $75 for each of 21 pay periods for most unit members (with a $37.50 premium co-payment for each of 21 pay periods for adult education teachers). UTF presented information on other school districts in Genesee County which have MESSA healthcare and information on the Middle Cities group of school districts which also have MESSA healthcare, suggesting that these are comparable school districts and bargaining units and concluding that UTF's healthcare proposal would put Flint in the mainstream, where it ought to be.

UTF proposes the resumption of the recently-discontinued MESSA healthcare program, with modifications in prescription and office visit coverage and partial premium payments by employees. UTF presented witnesses attesting to multiple reasons why the MESSA program should be resumed. Resumption, however, seems impossible. As noted, the District asserts the legal right to be the healthcare policyholder under MCL 423.215(3)(a). That statute provides in part: "Collective bargaining between a public school employer and a bargaining representative of its employees shall not include any of the following subjects:...(a) who is or will be the policyholder of an employee group insurance benefit." While the parties have a duty to bargain "with respect to types and levels of benefits and coverages," the policyholder issue is a "prohibited" bargaining subject under MCL 423.215(4) and is "within the sole authority of the public school employer to decide."

Here, the Board of Education decided that the District will be the healthcare policyholder. The District asserts that this decision is its exclusive prerogative under PERA and that UTF is prohibited from making that decision a bargaining subject. UTF does not seem to disagree with the District's reading of the law but, nonetheless, proposes resumption of MESSA healthcare. The difficulty with UTF's proposal is that it seems that MESSA will not agree to provide its healthcare program in the District unless MESSA is the policyholder. The District writes that "MESSA only offers group insurance benefits," underwritten by insurers, "for which MESSA itself is the policyholder." UTF does not seem to disagree with this either. Nor did the MESSA witnesses called at the hearing by UTF. Thus, the fundamental difference between the parties over MESSA versus HealthPlus is not an ordinary bargaining difference, or impasse. It is a difference over a statutorily "prohibited" bargaining subject, addressing a matter that by law is within the District's "sole authority."

UTF presented much information in praise of MESSA, its service, experience and programs, but whatever the merits of any arguments favoring MESSA, in light of the District's decision, and the law, it seems that UTF's proposal is not viable.

Beyond the specifics of healthcare, UTF suggests that the District's financial distress can be addressed in part, and that UTF's proposals would be affordable, with adjustments in District decision-making and priorities.

As noted, UTF questions the District's transfer of $6.65 million from its general fund to its capital projects, athletic, and food service funds. In particular, UTF reports that the District transferred $2,893,443 in 2003-2004 and $1,700,000 in 2004-2005 to its capital project fund and $979,309 in 2006-2007 and $1,081,588 in 2007-2008 to its athletic and food service funds, a total of $6,654,340 in transfers out of the District's general fund between 2003-2004 and 2007-2008. UTF questions these transfers and concludes: "Preserving operating revenue for district instructional expenditures would help keep the District financially stable."

As noted, too, UTF suggests that District staffing priorities are misplaced and that this is demonstrated by the change in personnel during the period 2002-2003 to 2008-2009. During that period, UTF reports, enrollment declined by 33%, from 21,040 students down to 14,044. During the same period, UTF reports, the District teacher workforce also diminished, from 1,313.85 down to 1,040 (in FTEs), a 21% reduction. At the same time, the total District workforce expanded by 30.96, from 2,727.87 to 2,758.83 a 1% increase. The growth in the overall workforce is attributable in substantial part, UTF reports, to the expansion of the number of District administrators, from 73 in 2002-2003 to 103.80 (in FTEs) in 2008-2009, up 30.80, a 42% increase. UTF questions District action in increasing "their administration population by

42%" over a period that the District lost "33% of their student population" and 21% of the teacher workforce.

UTF views its salary proposal as reasonable, in line with salaries in comparable school districts in and outside Genesee County, fair, and affordable, at least if the District follows UTF's suggestions regarding teacher-administrator ratios and increased allocation of available funds to instructional personnel rather than to less-crucial building, food service, and athletic program purposes.

## CONCLUSIONS AND RECOMMENDATIONS

### A. Healthcare

The MESSA factor, as discussed, forecloses UTF's healthcare proposal, leaving the District's proposal as the only viable healthcare proposal presented.

The District's HealthPlus plans differ in some respects as to benefits and coverage from the "mirror" HealthPlus plans put in place by the District on November 1 to replace the MESSA program. The "mirror" plans do not include the changed coverage proposed either by UTF or the District. Negotiations addressing the parties' differences over healthcare appear to have focused on the overall merits of the MESSA program proposed by UTF versus the overall merits of the HealthPlus plans proposed by the District. In current circumstances, with the MESSA program seemingly precluded by the policyholder issue, it may be salutary for the parties to address at bargaining, in the words of MCL 423.215(3), "types and levels of benefits and coverages," focusing on these details without preoccupation with a "prohibited" bargaining subject. A new approach in bargaining, eliminating the MESSA factor, or including a MESSA-based proposal that preserves District policyholder status, might be productive. In any event, the parties may refine their proposals to further address types and levels of benefits and coverages, or to include possible MESSA flexibility on the policyholder issue, but on the fact finding record I am constrained to recommend the District's healthcare proposal.

Moreover, on its merits the District proposal is not unreasonable. It will reduce costs, an objective that UTF and the District recognize to be a necessity in light of the District's difficult financial circumstances. In addition, the District healthcare proposal has the virtue of providing uniformity throughout the District which, as the District plausibly suggests, promises greater simplicity, economy, and efficiency in administration. It also has the imprimatur of ratification by SEIU-represented District employees, who, in many cases, have compensation lower than many UTF-represented District employees and so have HealthPlus premium co-payment obligations that amount to greater percentages of their overall compensation than would be the case for some UTF-represented District employees. In addition, uniform coverage among all District employees, including management employees, avoids seemingly unfair gradations and brings clarity to the parties' discussion of salary as the principal measure of fair compensation.

In sum, I believe that continued bargaining to address healthcare without the complicating MESSA factor—or with a new UTF proposal for a MESSA program that allows for District policyholder status—might be salutary. Nonetheless, based on the fact finding record, I am constrained to recommend the District healthcare proposal.

### B. Salary and duration

With regard to salary, I recommend the District "top of scale" proposal in part, but not in its entirety, and I recommend the duration proposed by UTF.

Again, the District makes a persuasive case that it is in financial distress and that this situation will continue and perhaps be exacerbated by continued declining enrollment and limited state funding. The District makes a persuasive case that no viable revenue solution is possible, leaving only difficult and unfortunate expense reduction solutions that involve salary and benefit cuts and, possibly, layoffs. The District suggests, and the experience of recent years confirms, that reduction in the teacher workforce, whether by attrition or layoff, would seem to be the inevitable consequence of the significant decline in student enrollment. Indeed, the dynamics of and relationship between enrollment and staffing levels makes year-to-year variations in both revenue and expense inevitable and difficult to project.

UTF does not contest the District's financial distress and pessimistic prospects—recognizing, among other things, that healthcare expense reduction is warranted—but UTF also suggests that the District's decision-making and priorities have been mistaken in some respects and that adjustments can help address the financial distress and deficit concerns described by the District and make reasonable compensation increases affordable.

The fact finding record does not provide a sufficient basis for assessing UTF's critiques of District decision-making and priorities, even if fact finding were an appropriate forum to address such issues. In addition, the authority and responsibility for managing the Flint Community Schools rests with District managers who, ultimately, answer to the Board of Education, elected by the voters. District decisions may warrant legitimate critique, and the District might profit from constructive criticism, but managing remains the province of District management and assessment of management decision-making is beyond the scope of fact finding.

It remains, too, that implementing UTF ideas about teacher-administrator ratios, and about using funds for instructional personnel rather than for buildings, food service, and athletics, would be likely to have only a limited impact on District finances. Administration, building maintenance, and food service, if not athletics, are necessary functions and necessarily will require some portion of the District budget. All District expenditures for other than salaries and benefits amount to only about 16% of the total budget, however. Decision-making and priorities more satisfactory to UTF might free some additional funds to allocate to instructional personnel, but in the broad scheme of things, adjustments are not likely to materially alter the District's distressed financial circumstances. Nonetheless, there is little doubt that UTF might offer constructive ideas, and even wisdom, to enhance District management. While the District has the authority to make decisions and the responsibility for doing so, consulting UTF and considering UTF ideas would be appropriate and prudent and smart.

The District's financial distress is a reality, however, and in light of it I cannot recommend UTF's salary proposal. As moderate as an annual 1% raise may sound in the abstract, its practical effect is to add considerably to the District budget at a time that the budget cannot sustain this added financial burden.

Nor can I recommend the District's salary proposal. I believe the District can do more. Indeed, there may be reason for limited optimism in that, at this writing, it has been reported that the scheduled $127 per-pupil cut in state aid, above the $165 per-pupil cut under the 2009-2010 state budget, has been given a "stay of execution," at least temporarily. The situation remains in flux and, of course, the parties can react through collective bargaining to events as they happen.

The District's concept—in place of across-the-board increases, 1% bonuses for those at the maximum longevity step—seems a prudent mechanism for improving compensation. Applied in any year of the collective bargaining agreement, the "top of scale" bonus mechanism will ensure that UTF-represented teachers will have some improvement in compensation, either by moving to higher longevity steps or, for those at the top steps, through the 1% bonus payments. In addition, many teachers also will have an opportunity for education-based increases.

Problematic in the District's proposal, however, is that it provides for "top of scale" bonuses beginning in 2010-2011, "freezing" compensation before then. This "freeze," coupled with the addition of employee healthcare premium payments and increased co-payments, seems too much too soon. Accordingly, I recommend that the collective bargaining agreement extend, as UTF proposes, through August 31, 2011 and that the 1% "top of scale" bonus payments be effective in 2009-2010 and 2010-2011.

The District makes a persuasive point that a longer contract promotes stability, enhances planning, and would reduce the time, expense, and other burdens associated with the protracted negotiations—and mediation and fact finding—that have characterized the parties' bargaining history in recent years. On the other hand, changes in healthcare, the partial "freeze," and the dynamic situation regarding enrollment and state funding suggest that it would be appropriate for the parties to have an opportunity to bargain reasonably sooner rather than much later, so that they can adjust their relationship in response to changing events closer to the time in which those events occur.

I leave it to the parties' bargaining to precisely calculate the cost of the "top of scale" bonuses, and to put these bonuses in the context of a complete agreement. Some data was presented in the fact finding process that would inform cost calculations, but the precise numbers require more analysis, factoring in the economic impact of projected enrollment decline and its impact on the size and expense of the District workforce, including UTF-represented employees and all others. These calculations require data and projections beyond those in the fact finding record and should be undertaken by the parties in continued negotiations. Still, based on the imperfect data and assumptions in the record, the implementation of 1% "top of scale" bonuses in 2009-2010 and 2010-2011 seems affordable and reasonable.

In sum, I recommend a collective bargaining agreement through August 31, 2011, with 1% "top of scale" bonuses in 2009-2010 and 2010-2011.

### C. Post-agreement discussion

I also recommend that the parties address some of their differences outside the context of collective bargaining after a new agreement is in place. While the advocates and others associated with the parties conducted themselves professionally and constructively in the fact finding process, and while the parties and their advocates have demonstrated substantial commitment to efforts to achieve common ground, I detected some differences that might be addressed to mutually-beneficial ends outside contract bargaining and outside fact finding.

In particular, the parties seem to have pronounced differences over their experience with MESSA. Now that HealthPlus plans are implemented, I believe that the parties would be well-served to jointly assess experience and participant satisfaction with the new plans as they now exist and as they might exist under a new collective bargaining agreement, to prepare for future bargaining on a fully-informed basis. Likewise, UTF's critique of management decision-making and priorities should be made more concrete and considered in a less adversarial forum, recognizing that both parties, and all bargaining unit members, share an interest in the health of the District and the success of its educational mission. Accordingly, I recommend that the parties create a post-agreement forum to discuss cooperative and constructive ways to address the difficult times and issues affecting the District, its teachers, and the Flint Community Schools' educational mission.

## CONCLUSION

In conclusion, I recommend the following to resolve the collective bargaining issues addressed in fact finding:

1. Duration. A collective bargaining agreement effective upon execution, in force through August 31, 2011.

2. Salary. A 1% "top of scale" bonus for K-12 teachers who would not receive a longevity step increase under the salary schedule in each of the following school years: 2009-2010 and 2010-2011.

3. Healthcare and other fringes.

   A. Bargaining unit members may select one of the following HealthPlus plans:

      (1) PPO Enhanced Plan 3E, which includes a $250/$500 deductible, $10 office visit co-payment, and $20/$40 prescription co-payment; or

      (2) HMO Plan Z1, which includes no deductible, $10 office visit co-payment, and $5/$10 prescription co-payments; or

      (3) Augmented PPO Enhanced Plan 3E, which includes a $250/$500 deductible, $10 office co-payment, and $10/$20 prescription co-payment.

   B. For the PPO Enhanced Plan 3E and the HMO Plan Z1, the District will contribute 90% of monthly premium; employee will pay 10% of monthly premium through monthly payroll deduction. The Augmented PPO Enhanced Plan 35, the District will contribute 85.8% of the monthly premium; employee will contribute 14.2% of the monthly premium through monthly payroll deduction.

   C. All other fringe benefit levels remain unchanged.

December 15, 2009

Stuart M. Israel
Fact Finder