

STATE OF MICHIGAN  
DEPARTMENT OF ENERGY LABOR & ECONOMIC GROWTH  
EMPLOYMENT RELATIONS COMMISSION

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In the Matter of Fact Finding

Chassell Township Schools

Employer,

-and-

MERC Case No. L08 H-5012

Chassell Education Association  
MEA

Union

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**INTRODUCTION**

On December 21, 2009, MERC appointed Kenneth P. Frankland as Fact Finder in this matter.

Chassell Township Public Schools (hereafter, "Chassell") filed a petition for Fact Finding pursuant to Act 176 of Public Acts of 1939 on September 28, 2009. The current contract expired August 25, 2008. Bargaining started April 28, 2008 and a tentative settlement was rejected by a Union vote on August 29, 2008. Negotiation sessions were held on April 27, May 6 and May 15, 2009. Several mediation sessions were held the last being February 17, 2010 but did not lead to an Agreement. The Fact Finder encouraged the parties to submit the matter via briefs rather than a hearing since only two issues are in dispute, wages and health insurance. Ultimately the parties agreed to submit the matter by Briefs that were filed on or before March 26, 2010 and Reply Briefs by April 16, 2010

The parties have agreed to incorporate tentative agreements into a new agreement. The remaining issues are:

1. Wages
2. Health Insurance

### BACKGROUND INFORMATION

Before going into the merits of each issue, a few prefatory comments are in order. Fact Finding is a process to present the facts to a neutral third party, along with the respective positions of the parties and thereafter a report is generated by the fact finder with recommendations to resolve the disputes and develop a new collective bargaining agreement. By bringing the issues to public scrutiny with public discussion, it is thought as a way to reach an accord.

Similar to mandatory police and fire arbitration, each party designates communities it believes to be comparable and uses data from those alleged comparable communities to support its position. More often than not, the communities that are selected will have provisions in existing collective bargaining agreements that mirror or at least support the position that is taken in this proceeding.

In this case, Chassel suggests Adams Township, Big Bay DeNoc, Carney-Nadeau, Dollar Bay-Tamarack, Ewen-Trout Creek, Lake Linden-Hubbell, Stanton Township, Wakefield-Marenisco and Watermeet. The Union suggests the school districts in Houghton and Baraga Counties serviced by the Copper County ISD all included in MEA Region 18-A. They are Adams Township, Baraga Area Schools, Calumet, Copper County ISD School District, Dollar Bay-Tamarack City Area Schools, Hancock Public Schools, Houghton-Portage Area Schools, L'Anse Area School District, Lake Linden-Hubbell, Stanton Township.

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The common entities are

<u>District</u>	<u>Number of Students</u>	<u>Number of Teachers</u>	<u>Avg Salary</u>
Adams	434	25	\$36,763
DollarBay-Tamarack	302	21	\$40,796
Lake Linden-Hubbell	522	36	\$42,219
Stanton Township	142	9	\$51,476
Chassell Township	279	18	\$46,647

[All statistics are from Chassell Ex. 13]

It is noted that Stanton is the only non-K-12 district. Neither side advanced factual arguments why the districts were similar or dissimilar other than the Union says its comparables are geographically proximate. Chassell utilizes data from the state regarding size of districts and available revenue. While proximity alone may be the best indicator in some cases, in my view it is best to also have some comparables that are similar in students or teachers or foundation grants to round out the selection.

For purposes of this case, I believe that districts that are geographically proximate, fairly close in student population, teachers and available revenue would best be used for comparison and the record suggests that the common comparables would fall into this category. I will give appropriate weight to those districts statistics. It is noted, however, that the facts adduced in Chassell will be given the most weight and the comparables information used only as appropriate.

### DEMOGRAPHIC AND ECONOMIC INFORMATION

Chassell is located in the northwestern upper peninsula at the base of the Keweenaw Peninsula and located within the Copper County Intermediate School District. The nearest center of population is the Houghton-Calumet area. The region has no major industries and the economy is supported by tourism, some logging and Michigan

Technological University. Chassell Township is mostly small farms and the Village of Chassell. Chassell has 36 square miles. There is one K-12 school building. Current enrollment is 272 students with 18 (or 19, as different numbers were given in the submitted data) bargaining unit members. Transportation and food services have been privatized. The current Superintendent is retiring and he will not be replaced. Chassell will have one administrator acting as Superintendent and Principal.

#### ABILITY TO PAY

The financial environment is the focal point of the two matters in dispute. The parties produced many exhibits with graphs and charts of budgets, general fund balances, revenue and expenditure analyses among others. I have read all submitted documents and the Briefs and tried to digest as much as possible; it is impossible to mention all in this report but I will try to outline a few salient items germane to making recommendations.

Chassell, like all other Michigan districts, is funded primarily through the State School Aid Act. This is done by a basic foundation allowance that is multiplied by the blended count of students. Payments are made on the state fiscal year (Oct -Sept) but Chassell operates on a July-June fiscal year. Because of state budget issues, the allowance is not guaranteed but may be prorated and this happened in 2002-2003 and 2003-2004 and 2009-2010. [It is unclear from this record to what extent Federal Stimulus monies negated or minimized the 2009-2010 proration, see Bd Exhibit 3] The actual foundation grant was rising from 2005-06 to a high of \$7,316 in 2008-09, but is projected to decline (Bd. Exhibit 6) to \$7,151 in 2009-10 and \$6,888 in 2010-11. Districts cannot expect foundation grants as high as 2008-09 given the state economic malaise and legislative inertia. Revenue will most likely decline under the current scenario.

While the foundation grant is projected to decline, student enrollment that is the multiplier, has historically shown a steady decline in Chassell. Bd Exhibit 7 identifies a high

## CHASSELL TOWNSHIP FACT FINDING REPORT, Cont'd

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of 333 students in 2000-01 to 283 in 2008-09; 271 in 2009-10 and projected 265 in 2010-11. Ergo, fewer students means less gross revenue but expenditures to support those students will continue to rise based upon salary step increases, insurance costs and state mandates regarding minimum curricula especially at the secondary level among others. Elimination of teaching positions may well not be an option thus the current instructional staff will probably be maintained for the foreseeable future even if Chassell has fewer students.

Union Exhibit 13, labeled "Ability to Pay" is based upon audited figures. From 2004 to 2008 expenditures exceeded revenues by \$566,589. The 2007-08 deficit was \$401,232 and reduced the Fund balance to \$442,646; the 2008-09 deficit was \$82,978 and the Fund balance \$359,688. In 2009-10 Chassell says the deficit is \$132,784 and will be \$143,906 in 2010-11 or 6% of expenditures. Chassell says the goal of a fund balance is 15-17% of expenditures. Chassell utilized the Fund Balance to offset those deficits as Michigan districts are prohibited by state law from running a deficit. From a high of \$1,660,156 in 2003, the Fund Balance declined each year to just \$359,688 in 2009 the last audit, 11% of expenditures.

The Union assert that from 2003, Chassell has spent \$407,315 on capital projects, thus diminishing the Fund balance. In Union Exhibit 14, MEA economist, Ruth Beier, asserts Chassell transferred money from the General Fund to the Capital Project Fund, an unrestricted Fund, and could be returned by a vote of the Board. From her perspective, in assessing ability to pay, these capital improvement funds should be treated as available in addition to the Fund Balance. Thus, for 2008-09 the combined available resource would be 25% of total GF revenue. Beier states the \$165 foundation reduction in 2009-10 would only equal 8% of the total surplus balances and sufficient to absorb the Union economic proposals. The largest capital expenditure was \$339,396 in 2007-08. The next largest was \$37,561 in 2006-07.

In the Reply Brief, Chassell asserts that a lease purchase agreement for energy efficient boiler and lighting updates cost \$280,000 in 2007-08 but has saved \$50,000 in

energy costs. (See, Exhibit C to Reply Brief.) Further, Chassell will have a millage proposal on the May 4, 2012 ballot for among other things a sinking fund for roof improvements. To have a millage election for a capital project fund as suggested by the Union for the energy lease purchase instead of using the General Fund and thus lowering the Fund balance seems like second-guessing at this point in time. Millage elections are at best a toss up in this economic climate.

Chassell in Exhibit 10 claims that in 2008-09 revenues were \$2,301,045 and expenditures \$2,384,023, with projections for 2009-10 of \$2,295,812 and \$2,428,596 respectively (a projected deficit of \$132,784) and a projected balanced budget at \$2,266,690 for 2010-11. They say that teacher salary is 44% and teacher benefits are 11% of expenditures. (Bd Exhibit 5) or 55% of the operating expenditures are for teacher compensation. Chassell also asserts that retirement as a percent of salary was 17.74% in 2006-07; 16.72% in 2007-08; 16.54% in 2008-09 and projected as 16.94% in 2009-10 and 19.41% in 2010-11. (Bd Exhibit 8)

Chassell also says the projections are estimates on revenue and are conservative, not planning for expanded state revenues in the face of state budgetary problems and past history of reductions once the fiscal year was well underway.

Chassell asserts that with declining enrollment and revenue growth per student fairly stagnate and with rising costs for step increases, retirement benefits and health insurance, it has taken steps to avoid larger deficits in the past. There were cuts in 2005-06, 2006-07 and 2008-09. Teachers were reduced from 21 in 2001 to 19 in 2010 and from three administrators in 2001 to one administrator in 2010, the high school principal; the superintendent is retiring and the position will not be filled for a purported savings of \$124,539. Historically, there have been layoffs of six teachers and support staff. A list of budget reductions for 2008-09 and 2009-10 are presented at Bd Exhibit 12. Transportation has been privatized (See, Exhibit 12, Board Minutes, 2/22/10).

The Union points out that the parties did agree in 2007-08 to alter teacher contract time and the school calendar. Time increased from 35 periods to 30 periods per week.

The calendar was reduced by 11 days. The Union asserts this made it possible to increase the number of academic offerings while using the same number of staff.

**CONSIDERATION OF INDIVIDUAL ISSUES**

**POSITIONS OF THE PARTIES**

**SALARY**

	2008-2009	2009-2010	2010-2011
<b><u>ASSOCIATION:</u></b>	0%	1.5%	1.5%
	Steps	Steps	Steps
	Retroactive	2 furlough days	2 furlough days
<b><u>DISTRICT:</u></b>			
September 28, 2009	0%	0%	Open
	Steps	Steps	

**HEALTH INSURANCE**

**ASSOCIATION:**

Current MESSA Choices II \$5/10 prescription cost; \$10 office visit; \$100/\$200 deductible; no employee contribution; no employee cap \$1,424 per month. Cost of \$17,098 per year.

**DISTRICT:**

Choices II \$10/20 Rx; \$1,100 per month Board contribution - \$13,200 per year.

## GENERAL OBSERVATIONS

Before discussing the issues, a few general comments are in order.

First, successful collective bargaining is the art of the possible. What a party argues and works hard to achieve many not be possible, sometimes even unrealistic. As a Fact Finder, the obligation is to assess the facts as presented, as objectively as possible, and then make suggestions that are possible given the facts. Our role is usually not to select one or the other offer as in Act 312, but to blend a proposal that will advance the collective bargaining process.

Second, strident *ad hominem* comments, as evidenced in some portions of the Briefs, serve no useful purpose. Such comments only raise the angst and mitigate against a cooperative spirit of bargaining.

Third, a successful school district is one that first and foremost advances the real goal of providing a quality educational environment for students. That means both the district and the teachers have a shared responsibility to take existing assets and best use them for the advancement of students, not just now, but also in the future. This means sacrifices on all sides now to preserve a better future.

Fourth, the mediation process is confidential. Mediators may not publicly disclose any positions the parties may have advanced in trying to reach a settlement nor should the parties. The parties should carefully consider in their presentations how to express what occurred in mediation without violating the confidentiality of that process.

## HEALTH INSURANCE DISCUSSION

From reading the record it is obvious that health insurance is the most difficult and contentious impediment to a settlement. The parties have laboriously set out the chronology of discussions and pointed arrows at each other for the lack of an agreement. The Union Brief at page 2 (my reference as the pages are unnumbered) states, "**The main stumbling block was the cap on insurance**". Chassell Brief, at page 21, states,

**“The core of these negotiations and the future stability of the district is insurance.”**

Since Health Insurance is most dominant, I will offer recommendations on it first.

The contract expired August 25, 2008. Thus, we are looking both backward and forward on this issue. The expired contract, page 17 states that for 2006-2008 the coverage is Choices II with \$5/10 prescription drug card. Both the prescription drug co-pay and the deductible shall be paid by the employee. It is unclear whether there is a deductible as it is not mentioned per se for 2008 but Chassell at Brief page 12, asserts Choice II includes \$100/200 deductible. In any event, Chassell pays the full premium for MESSA Choices II and employees pay the prescription co-pay and the deductible if necessary. Additionally, employees with health insurance also receive dental, vision and negotiated life and LTD usually provided in a MESSA PAK. Employees not needing health insurance receive dental, vision, life, LTD and cash in lieu of health coverage.

The Union proposes, for the next contract, what they describe as continuation, current MESSA Choices II, \$5/10 prescription, \$10 office visit, \$100/200 deductible, paid by employees but no employee contribution to premiums. Alternatively, Chassell proposes the same coverages but wants a \$10/20 prescription co-pay and a cap of \$1,100 per month premium payment by the district. It is unclear how the \$10 office visit component arises unless it is also a part of Choices II.

Chassell says the following chart depicts the costs for the last decade and asserts in the last five years the cost has doubled.

(July - June 30)	Monthly	Annual	% increase
1999-2000	Plan A: \$659.61	\$7,915.00	13%
2000-2001	Plan A: \$711.44	\$8,537.00	7.0%
2001-2002	Plan A: \$757.50	\$9,090.00	6.0%
2002-2003	Plan A: \$847.26	\$10,167.00	11.0%
2003-2004	Plan A: \$988.85	\$11,866.00	14.0%
2004-2005	Plan A: \$1,749.58	\$13,795.00	14.0%

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2005-2006	Plan A: \$1,149	\$13,788	11.0%
07/06-09/07	\$1,258 (2 months)		+ 9.47%
09/07-2008	\$1181 (10 months)	\$11,810	-6.10%
	Switch to Choice \$5/10		
2008-2009	\$1,212	\$14,544	+2.61%
2009-2010	\$1,381	\$16,572	+13.9%

Chassell claims that MESSA does not allow a District to negotiate rates but rather simply tells a District what the rate will be for the next year and thus costs are higher than if negotiated on the open market. Although this may be true, MESSA plans have been very effective for teachers and they are very reluctant to shift to other health providers. Chassell recognizes that MESSA is the policyholder and thus legislatively that fact makes the provider a prohibited subject of bargaining. This fact apparently is why Chassell has not requested leaving MESSA rather, if that is what the teachers want then the alternative in Chassell's view is a cap on premiums. If cost containment is restrained by a limitation on seeking other providers, Chassell argues a cap is the best way to secure cost containment.

Chassell offers evidence that in Michigan teachers are contributing to some of the cost of health insurance. In Exhibit 18, Chassell lists 30 of the 65 K-12 and ISD Upper Peninsula districts that have employee contributions and/or employer cap for 2009-2010. Those districts are depicted on an Upper Peninsula map in green. This suggests a trend to some form of cost savings/cost containment in many of the UP districts. It is noted that none of the Districts in the Copper Country ISD have such cost containment and one of reasons why the Union proposed those entities as comparable communities.

Chassell points out that the superintendent pays 40% of the premium for his health insurance. There is no information in the record as to what support staff in other unions or non-union employees, if any, receive in health benefits.

The Union does not present much information on health insurance relying mostly upon the opinion of Ms Beier that Chassell has the ability to pay and relies on the fact that some elements of Choice II have been modified to save some money. They believe that their salary position is nominal and the offer of two furlough days would be an attractive alternative to health cost sharing.

While the Union acknowledges that health insurance is a concern they say that past bargaining history allows for give and take evidenced by suggestions of tying salaries and health cost on a sliding scales. The Union would argue that the hard cap concept is not fact based, but a reaction to unfounded perceptions regarding MESSA and a failure to look at the Union comparables. They assert that in negotiations they raised the sliding scale option for 2009-10, 2010-1 and 2011-12 in conjunction with adding a \$10 office visit and a \$100/200 deductible in 2009-10. (See, Union Brief, at page 2)

#### RECOMMENDATION

It is noted that nationally the vast majority of workers pay some part of a health premium. With double digit health rate increases many workers have lost coverage. In the public sector in Michigan, more and more entities are instituting cost containment.

Since a switch to another provider is not on the horizon and if cost containment is a desirable goal then some premium sharing by employees or very significant benefit reductions are a necessity. I cannot ignore that the record shows ever-increasing health insurance rates that are disproportional to other rising costs and that these costs have nowhere to go but upward. With revenues stagnant sooner or later the fund balance will be completely eroded. Whether the fund balance in Chassell is within the norm or is understated as the Union argues as a source of funding for health can be debated ad nauseam. What is know is that the Fund balance is shrinking and is at a precariously low level. Fully paid fee for service health insurance is a slippery slope and the parties should look now at creative solutions before the slide produces other more drastic options.

On balance, the evidence produced by Chassell presents a better case for cost containment to avoid the slippery slope rather than the Union emphasis on the status quo. There are several reasons. First, revenues are going down and not likely to go the other way. Second, student enrollment is slowly decreasing. Third, pension costs are going up and there is no way to avoid or contain those. Fourth, teacher compensation is 60% of the budget and assuming no elimination of positions or layoffs that percentage will remain the same or increase and clearly is not an area of cost containment. Fifth, even with some cost reductions, Chassell has run deficits in the last several years and used the Fund balance to offset those deficits even after taking several cost savings measures. Sixth, the other Fact Finding reports submitted as exhibits are instructive as to trends for cost containment. And seventh, a very significant factor is that almost half of the UP districts have some health insurance cost sharing and a large percentage are in the western UP. I acknowledge that the immediately adjacent districts have not moved in this direction but I don't know why. What I do know is this District on the facts presented must make an effort to be forward-thinking; break the mold if necessary to ensure fiscal stability in the future.

The Union has not presented much information on this issue other than the opinion of Ms. Beier that the Fund balance is sufficient to handle the current health program. While I respect that opinion, it is just that an opinion, from the perspective of the Union and there may be some assumptions that not all person would agree upon. Unfortunately, the Union members do not seem to look at the bigger picture and project what may happen in the future if meaningful health cost reforms are not addressed now.

An acute problem in this case is that the contract expired August 25, 2008. A fully retroactive insurance co-pay would be hard to swallow as it would have to be addressed as a payroll deduction in the future for a benefit already received so I do not recommend a change for 2008-2009. Frankly, none seemed to be contemplated in the District's negotiation positions for this year.

For 2009-2010 we have somewhat of the same problem. This matter was delayed for various reasons and I attribute blame to no one. Naturally any delay on implementation of a cap works in favor of the teachers.

Although Chassell asks for \$1,100 cap per month for the teachers opting for health care, I believe that the parties should go slower on this item. Board Exhibit 15 says the rate is \$1,478 per month but Board Exhibit 14 says projected rate of \$1,424. Union Exhibit 16 says \$1,477.96. With a \$1,100 cap teachers would be paying over \$300 per month with any figure! ( I note that Union Exhibit 16 indicates for 2009-10 there are 13 members with the full family rate) This in my view is asking far too much and I do not see that other Districts that do have cost contribution (Bd Exhibit 18) have nearly that much. I believe that something close to what Chassell proposed during negotiations seems reasonable and thus I recommend a cap of \$1325 per month. This equates to about \$100 per month. Since it is already the end of April, there would be only four months left in the contract year if this recommendation is prospective only; therefore, I suggest two month retroactive and four months prospective for implementation. Fully retroactive would be a tough pill to swallow but splitting the year in half would be a good first step. This starts the concept, places less burden on teachers for benefits already received but does provide some immediate cost savings for the 2009-10 contract year.

For 2010-2011, I recommend a cap of \$1,300 per month per member. Start the process moving and try to reach agreement with a new template to work with. The Chassell fund balance, if necessary to maintain a balanced budget, would not be placed in an immediately precarious situation and should be able to absorb this cost and still achieve part of the cost saving objective. In this first year, the cap would mean the teachers would contribute about \$100 per month for six months, significantly less than the national average for full family coverage and similar or slightly higher than some UP districts. The teacher contributions by way of payroll deduction should be deposited in a Section 125 plan.

If the teachers find this recommendation difficult they may want to look at increased deductibles or other tweaks to Choices II if they want the same benefit services. However,

any changes to the plan should equate to the same minimum \$100/month/per member cost savings to the District.

#### SALARIES

Chassell proposes .0% increase for all three years and the Union requests 0% increase for 2008-09, 1.5% and 2 furlough days in 2009-10 and 2010-11.

The teachers have been paid at the 2007-2008 rate but have not been given step increases for 2008-09 nor 2009-10. **I recommend that step increases be paid for all three years of the contract.** The parties can determine the best way to implement this given we are already in April 2010. The teachers did make changes to the contract time and the calendar during 2007-08. While negotiations have stalled, the District should recognize this gesture and should make the step payments even if the legal requirement to do so is debatable in their view.

When considering salaries, I am mindful that step increases do provide economic advances of up to 5% for some teachers. Bd Exhibit 4 presents the levels for faculty as of 2007-08 and Union Exhibit 13 presents the actual steps and Union salary increases for the same teachers. They show that some teachers on steps do receive significant dollars greater than just 1.5%. The Union asserts that the gross expenditure for salaries will be less in the 2<sup>d</sup> and 3<sup>rd</sup> years and this is accurate - but only because apparently three teachers earning more than \$50,000 each are not on the salary grid.

Chassell says the teachers have an average salary of \$46,647 or 6.5% higher than the average of similar sized districts in the UP and Northern Michigan. The Union counters that when compared with the Copper County districts (U-13) they are in the lower third at first step and even lower at the top step for 2009-10. In the accepted comparables Chassell has higher salaries in all except Stanton and that is the only non-K-12 district. One can say that Chassell is definitely competitive on salaries.

I am more impressed with the Union presentation on ability to pay salaries. The current salaries are clearly not disproportionately low requiring any "makeup"

nordisproportionately high suggesting no increase. Frankly, the Union proposal is in the ballpark but might need to be tempered given the impact of step increases.

#### RECOMMENDATION

This issue presents the same first year dilemma as in Health. Perhaps the parties are mindful of this fact and why neither supports an increase in 2008-09. **Neither party has proposed a salary increase for 2008-09 and thus none is recommended either.**

While I do believe an increase is justified in 2009-10 and 2010-11, **I recommend it should be 1%**, less than they want the Union asks and more than Chassell's 0%. . A 1% increase should not have a significant impact on the bottom line assuming the Union is correct on three experienced teachers not on the payroll. The Union should give strong consideration to this as it is an increase and builds the base for the future. This would include a retroactive payment for part of this year and real income in these trying times. Not having a recommended health contribution in the first year and a partial contribution in the 2d year, this increase could well mitigate the health contribution recommendation. Assuming a health cap is instituted, there has generally been a trade off during settlement negotiations in many communities, a salary increase to help offset the new share of health insurance premium (See, *Wolverine Fact Finding Report*) and Chassell is encouraged to accept the salary increase as opposed to its no salary current position.

#### CONCLUSION

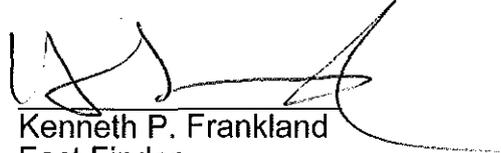
I wish to acknowledge the effort of the parties as they produced a great amount of material in the exhibit books. The Briefs were very helpful to assist in understanding the issues. Needless to say fact finding is an imperfect science. The recommendations may not make a party happy on a particular issue; but that is the very nature of the process.

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However, it is hoped the comments and recommendations will be of benefit to the parties and that they will be able to reach an accommodation and quickly develop a new agreement. At least it may give the parties food for thought and the ability to alter their positions and reach an accord.

Respectfully submitted



Kenneth P. Frankland  
Fact Finder

Dated: April 27, 2010