

STATE OF MICHIGAN
FACT FINDING
Before George T. Roumell, Jr.

*In the Matter of the
Arbitration Between:*

UTICA SCHOOL DISTRICT

-and-

UTICA EDUCATION ASSOCIATION

FACT FINDER'S REPORT AND RECOMMENDATIONS

APPEARANCES:

FOR UTICA SCHOOL DISTRICT:

Gary J. Collins, Attorney
Michael Sturm, Asst. Superintendent
Jill Tomy, Executive Director
Deborah Koopke, Executive Director
Justin Washington, HR Director
Stephanic Eagen, Asst. Superintendent
Robert Monroe, Asst. Superintendent
Jared A. McEvoy, Principal
Linda Schneider-Rediske, Principal

FOR UTICA EDUCATION ASSOCIATION:

David Radtke, Attorney
Lisa Harrison, Arbitration Specialist
Liza Parkinson, President, UEA
Amy Zitzelberger, UEA
Ruth Beier, Economist
Dale Ott, UEA Bargaining Team
Chris Versele, UEA Bargaining Team
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Lisa DiPirro, UEA Bargaining Team
Pam Grady, UEA Bargaining Team
Eric Kehres, UEA Bargaining Team
Mary Mills, UEA Bargaining Team
David Rudzinski, UEA Bargaining Team

Introduction

The Utica School District ("Utica") is Michigan's second largest school district, having approximately 1,400 teachers serving approximately 27,900 K-12 students. Utica has a fine education program with devoted and outstanding teachers as evidenced by the fact that Utica has attracted in 2016-2017 2,102 School of Choice students or about 8% of its student body.

However, bluntly put, the District is on the path to financial disaster that unless the parties face realism Utica will become a candidate for State supervision and possibly takeover that could result in unnecessary financial hardship to the teachers.

The parties have taken too long to reach an agreement on a plan that could avoid any potential for State action. The delay has not been helpful to the teachers for there is a plan that will be set forth below that will help stabilize the District's finances to the benefit of both the teachers and the students of the District with minimum impact on the teachers. In the view of this Fact Finder, the time has come to settle the contract now and move on.

A key recommendation that will follow reduces the co-pays on insurance premiums teachers are paying that impact take home pay. If there continues to be a delay in reaching a contract, such a delay will have an adverse effect on the teachers' take-home pay because there would be a delay in the reduced insurance premiums co-pay.

It also should be emphasized that any recommendations that are made in this Report will apply not only to teachers but to every member of the administration of the District. All parties must take part in the effort to stabilize the economics of the District so that the District can move forward without fear of State supervision and its potential detrimental effects on the lives of both the teachers and students of Utica.

The Economic Warning

By State law and practice, the State of Michigan does put school districts on watch lists, namely, under potential observation and possible State oversight, when the district's general fund balance is 5% or less or the district continues to have deficits, namely, spends more money for operations than the district receives in revenue from all sources. The fund balance represents the

monies that Utica has left, so to speak, in its bank account based upon a ratio after accounting for revenue and expenses. State oversight, if it comes about, can mean drastic cuts in programs and teacher salaries and benefits.

The fact is that in the last two years the Superintendent has received written communication from Paul G. Connors, Director for School Accountability Division of the Michigan Department of Treasury, questioning the financial health of Utica. Certain undeniable facts led to this inquiry. Since 2008 through 2017, Utica has spent more money operating the District than it has received in all but four years. In 2011, the expenditures and receipts were approximately equal. In 2008, expenses exceeded revenue by about \$3,000,000. In 2009, the expenses were \$4,000,000 more than revenue. In 2010, the expenses exceeded revenue by about \$5,000,000.¹ 2012 was an unusual year because Utica received federal stimulus funding, accounting to about \$10 million more in revenue than spent. However, in 2013, the expenditures exceeded revenue by about \$6 million. In 2014, the expenditures exceeded revenue by about \$5 million. In 2015, the expenditures exceeded revenue by almost \$6 million, even though \$3.4 million of the revenue came from a one-time land sale which would suggest that without the one-time land sale the expenses would have exceeded almost \$9 million. In 2016, the expenses exceeded revenue by \$8 million. In 2017, the revenue exceeded expenses by approximately \$2 million, but \$5.5 million was from a one-time land sale which would suggest that the expenses were exceeding revenue from the usual sources by approximately \$3 million.

What this means is in terms of general fund balance the District had \$45 million in 2006-2007. By 2015-2016, the fund balance was \$17,910,000. In 2016-2017, the fund balance did go

¹ Throughout this report, this Fact Finder has rounded numbers and used approximate figures.

up to \$20,695,000, but this was because of a one-time land sale that will not be repeated of \$5.3 million. The fact is the District is consistently and dramatically since 2013 spending much more than it is receiving in revenue. In 2013-2014, the District had a fund balance of \$32,645,00. Within two years, that fund balance went down to \$17,910,000, namely, the 2015-2016 school year. Indeed, this is dramatic.

With such facts, it is no wonder that on April 12, 2016 Paul Connors, Office of School Review and Fiscal Accountability, wrote Superintendent Johns the following letter:

Pursuant to 2015 PA 109, the Michigan Department of Treasury (the "Department") has the authority to determine whether or not potential fiscal stress exists within a school district, intermediate school district, or public school academy.

The Department has reviewed the following financial factors for Utica Community Schools that may indicate potential fiscal stress:

1. Financial data or other information within a recommended budget, budget, or general appropriations act of the school district.

The Department has reviewed the District's budget amendment that was approved on February 8, 2016. The projected general fund ending balance for June 30, 2016 is \$11,153,143. This is a 57.154% reduction in general fund balance from July 1, 2015. The projected general fund balance is 4.187% of total general fund revenues.

Please respond in writing with an explanation of the decrease in general fund balance and whether a corrective action plan has been implemented to improve the financial position of the school district for the 2016-2017 school year. If your school district has not taken satisfactory corrective action, then the Department may declare potential fiscal stress.

Please submit information by April 29, 2016. If you have any questions or require assistance, please don't hesitate to contact Sam Irrer by phone at (517)-335-1009 or by email at Irrers3@Michigan.gov.

By any definition this Connors letter suggests that the State was expressing serious concerns about the economic situation in Utica.

On April 29, 2016, Dr. Johns responded as follows, setting forth the efforts that the District has made in containing costs in the following letter:

Utica Community Schools (UCS) is in receipt of your April 12, 2016 letter of inquiry. You have requested an explanation of the decrease in the general fund balance and whether a corrective action plan has been implemented. As explained further below, the following actions have been taken and will be proposed to the Board of Education as part of the district's ongoing structural deficit elimination strategy.

As I am sure you are aware, many school districts in Michigan, including Utica Community Schools, are struggling to maintain adequate educational programming and services in over a decade long environment of a permanent reduction of per pupil funding, redirection of revenue, the Headlee Amendment, the implementation of the 2X formula, inflationary costs, restricted categorical funding, and declining enrollment. In light of all of these complications with the revenue stream, UCS has been fiscally responsible and has met its legal obligation to have a balanced budget every year. Utilization of fund balance is taken seriously by the UCS Board of Education and administration and is one piece of multi-year planning. Additionally, UCS continuously monitors the district's financial health and recommends to the Board of Education cost containment and reductions to address the district's structural deficit problem.

Specifically, UCS will improve its year-end financial position from \$11M to \$14M, -over 5%, in fund balance when the Board of Education amends the 2015-2016 budget in June. Furthermore, the Board of Education on March 14, 2016 approved \$2M in program reductions for fiscal year 2016-17. Additionally, another \$6.5M in cost containment and reductions for 2016-17 will be recommended to the Board of Education for approval.

UCS has been addressing the structural deficit problem over the last thirteen years and has implemented \$107M in reductions, including the elimination of 834.6 full time equivalent positions, employee wages concessions/healthcare redesign, the closing of four elementary schools, the contracting out of services, and the elimination of programs. Attached is a detailed summary of the permanent budget reductions.

Please contact me if you have additional questions.

On March 1, 2016, Mr. Connors wrote Dr. Johns:

Pursuant to 2015 PA 109, the Michigan Department of Treasury (the "Department") has the authority to determine whether or not potential

fiscal stress exists within a school district, intermediate school district, or public school academy.

In December 2016, the Department applied a fiscal projection model to historical Financial Information Database (FID) data that identified 53 school districts as having a projected deficit within the current fiscal year or the following two school fiscal years. The projection model incorporates four key financial indicators, which are enrollment, revenue, expenditure, and fund balance.

Utica Community Schools was identified by the projection model and was sent a communication to determine if a corrective action plan had been implemented, or if there was an explanation for a decrease in general fund balance. The Department reviewed the response from Utica Community Schools and its financial data to determine whether potential fiscal stress existed in the school district.

The Department would like to thank the district for its cooperation. The Department is **not** making a declaration of potential fiscal stress at this time. However, if the district does not follow its corrective action plan or is subject to a deteriorating financial situation, then the Department may declare potential fiscal stress.

If you have any questions or require assistance, please don't hesitate to contact Michael Wrobel by phone at (517)-335-3247, or by email at WrobelM@Michigan.gov
(Emphasis in original.)

The last sentence in the second to last paragraph was not lost on this Fact Finder and bears repeating – “However, if the district does not follow its corrective action plan or is subject to a deteriorating financial situation, then the Department may declare potential fiscal stress.”

The letters do refer to the District as having a structural deficit caused by the continuing spending more money than the District receives in revenue in order to operate the District's educational program. Even the representatives of the MEA who testified acknowledged that the District was in stressful deficit. Any way one reviews the situation, the District is spending more money than it is receiving. Furthermore, as this Fact Finder reviewed the situation, with the continuing loss of students and the effect on State aid, the deficit, unless addressed, will continue

to balloon.

If the deficit continues each year, the State, as evidenced by Mr. Connors' letter of April 12, 2016, will declare Utica to be in "potential fiscal stress" with the State potentially considering taking over the Utica Schools to the disadvantage of the teachers and any economic gain that the teachers have obtained in the past. To again highlight, any way this Fact Finder looks at the situation, Utica is in financial crisis now.

Why The Deficits?

In 2008 and 2009 and for three years thereafter, the District was receiving \$7,807 per pupil for State Foundation Allowance. During this period, the District had between 29,500 and 28,500 pupils. Then came in 2010-2011 where the State reduced Utica's foundation allowance \$400 to \$7,337 per student, even though Utica was educating approximately 29,194 students. This was a dramatic drop in State funding, resulting in millions of dollars of lost revenue through no fault of the Utica Community Schools. Eventually, by 2017-2018, the State had gradually increased the State aid to Utica so that by the 2017-2018 school year the foundation allowance in Utica was \$7,796 per pupil. But it was not until 2014-2015 that the State was making any effort to increase the Utica per pupil foundation allowance. Thus, in 2013-2014 the allowance went from \$7,370 to \$7,391; in 2014-2015, to \$7,441; in 2015-2016 to \$7,572; in 2016-2017 to \$7,684. The point is although the State was restoring the foundation allowance to Utica from its high in 2008 through 2010-2011, the restoring effort to the dramatic \$400 cut was "meager" [the Fact Finder's word] until 2016-2017 and 2017-2018, but then the tremendous financial damage to the District had been done by the State causing the continuing deficits.

The second prong of the economic problem is that the District, consistent with the trend

in Macomb County of reducing birth rates, over 10 years from 2006-2007 to 2016-2017, has lost 1,837 students, namely, the difference between 2006-2007 with a student enrollment of 29,572 students and 2016-2017 with 27,703 pupils. The District has by creative programs established viable School of Choice enrollment so that by 2017-2018 about 8% of the student enrollment in Utica are School of Choice, namely, 2,231 students, which brings in State aid of approximately \$17,392,000. Without the School of Choice program, in the view of this Fact Finder, the District would be under State control by now. It is also predicted that there will be in 2017-2018 534 less pupils due to declining birth rates which negatively impacts the revenue that the District can expect for the forthcoming year.

The bottom line is that in the 10 year period during which the State had reduced the District's State aid as explained above from 2006-2007 to 2017-2018 including student loss during that time, the District has received \$10,365,000 less State aid while still experiencing substantial expenses including a teacher salary schedule favorable to the teachers.

A third prong, in 2016 Utica was not reimbursed for \$16,889,000 spent for Special Education with transportation. In 2017, the amount of reimbursement that was not provided to Utica was \$18,366,000, meaning that this shortfall has to come from the general budget.

The financial situation can be best illustrated by a comparison of the general fund expenditures between 2017 and 2009. In 2009, 74% of the expenditures were for instruction and instruction of support. Twenty-six percent was for all other support services. By the year ending June 30, 2017, 81% was for instruction and instructional support whereas 19% of the expenditures was for all other support services. With the change of per pupil foundation allowance from 2009 of \$7,807 to 2017 of \$7,796, the District was receiving \$123 less per pupil

(\$3.4 million) in 2017 than in 2009. The cumulative effect was the loss of \$59.5 million less in revenue since the foundation cut of \$470 per pupil in 2012.

What this has all meant is an unsustainable financial model in Utica. The following chart illustrates that among the school districts with 2,500 students the highest average salary for 2015 and 2016 in comparison with foundation allowance reveals the following:

Average Teacher Salary vs Foundation Allowance (2015-2016)
 (districts in MDE Bulletin Top 10 average teacher salary ranking at least 4 times since 2010-2011 with >2,500 students)

School District	Foundation Allowance 2015-2016	Average Salary 2015-2016
Center Line Public Schools	\$ 9,503.00	\$74,971.00
Farmington Public School District	\$10,045.00	\$78,435.00
Livonia Public School District	\$ 8,169.00	\$76,169.00
Utica Community Schools	\$ 7,572.00	\$80,334.00
Walled Lake Consolidated Schools	\$ 8,315.00	\$76,911.00
Warren Consolidated Schools	\$ 9,006.00	\$76,465.00

* Between 2010-2011 and 2015-2016, the following school districts were ranked in the Top 10 highest Average Teacher Salaries at least 4 of 6 years:

- Center Line Public Schools*
- Farmington Public School District*
- Livonia Public Schools*
- Utica Community Schools*
- Walled Lake Consolidated Schools*
- Warren Consolidated Schools*

Of these school districts, Utica Community Schools had the lowest per pupil Foundation Allowance each year.

To further emphasize that the situation in Utica is financially unsustainable, the 2015-2016 Bulletin 1014 indicated that the Utica Schools had the third highest average wages in the State of Michigan against a foundation allowance at that time of \$7,572. Further testing the

unsustainability is the fact that in 2016-2017 the BA maximum wage in Utica in the Southeast Michigan tri-county area was #4 out of 80 school districts. Yet, the first six districts listed with one exception had substantially higher per pupil funding. In Macomb County, Utica is second in 2016-2017 at the BA maximum. Yet, Districts through 11th place are receiving a larger foundation allowance than Utica. The same was true in 2016-2017 at the MA maximum among Macomb County districts with Utica being second. Yet, among the first 17 only two received slightly less foundation allowance than Utica.

In other words, Utica has in the past granted wage increases on the salary schedule inconsistent with its ability to pay based upon the foundation allowance provided by the State.

These are the brutal facts leading to the structural deficit and the potential of putting Utica on fiscal stress by the State of Michigan.

The Eagen, Hanson and Beier Testimony

Stephanie Eagen is a certified public accountant licensed by the State of Michigan. She is Utica's Assistant Superintendent, Business and Auxiliary Services, responsible for the financial records of the District. Because of her professional status, including a time where she practiced public accounting, it is obvious that she has employed the utmost professionalism in compiling the budget and financial records of the District. Ms. Eagen explained that prior to the school year a budget is prepared predicting revenue and expenses; that during the school year as more information is gained, including student enrollment and the State foundation allowance, amendments are made to the budget. At the end of the school year, the financial records, including statements of revenue and expenses, are audited by a well-known and respected public accounting firm, Plante & Moran. The Plante & Moran partner in charge of the audit is CPA

Donna Hanson who is also in charge of the group of Plante & Moran that audits numerous school districts in Michigan. Both Ms. Eagen and Ms. Hanson acknowledged that among school districts there is a difference between the final audit and the final budget as amended through the school year with the audit usually being 1.5% to 2% less than the budget. This is common in most school districts and is the experience in Utica.

The audit opinion of Plante & Moran for Utica for school year ending June 30, 2017 contained the following statement:

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of Utica Community Schools as of June 30, 2017 and the respective changes in its financial position and, where applicable, cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

The audited statement reveals that the revenues for school year ending June 30, 2017 was \$269,512,041. The expenditures were \$274,056,922. The excess expenditures over revenue was \$4,544,881. There were two one-time additions to the revenue – a sale of property for \$5,556,816 and a transfer of \$1,773,248. The transfer according to the notes in the report were:

During the year, the Food Services Fund transferred funds to the General Fund as a reimbursement of overhead costs. Additionally, the Enrichment and Bookstore Funds transferred funds to the General Fund as the resources were no longer committed by the School District for use in those funds.

As noted, it is doubtful whether these funds will be available in the amount of the transfer in the future. These one-time transfers did increase the fund balance from \$17,910,683 to \$20,695,866. If there were not these two transfers where the property sale is clearly a one-time source of revenue and the \$1,773,248 transfer seemed to be limited, the fund balance would have gone

down from \$4,544,000 to approximately \$13,400,000 – clearly, in the danger zone of 5% or below.

One does not have to take the word of any Utica school official about these facts. These are the facts as certified by a distinguished certified public accounting firm.

MEA Economist Ruth Beier in her exhibits criticized the budget assumptions for 2017-2018 which predict an \$8,323,000 negative change to the fund balance, suggesting that the revenue should be based upon the actual revenue in the audit for the year ending June 30, 2017. Furthermore, Ms. Eagen pointed out that in contemplating a revenue increase over \$269,000,000 she considered any other possible savings. In other words, the recognition by Ms. Eagen of potential revenues without considering one-time revenues to outside auditor Hanson in her testimony seemed to be consistent with recognized accounting principles. The Beier projections in the view of this Fact Finder did not consider the one-time revenue sources that no longer exist. The 2017-2018 District budget projects a revenue of \$271,836,000. Ms. Beier suggests a more realistic revenue projection would be \$276,412,000. Yet, the general fund revenue ending June 2017 was \$269,512,000. This was without the addition of the one-time property sale of \$5,556,000 and a transfer of \$1,773,000. As pointed out, the sale of the property is a one-time revenue source. The obvious problem with Ms. Beier's realistic revenue projection is that she considers the \$5,556,000 one-time property sale as repeat revenue which is far from the facts. The fact is the Eagen prediction is more realistic.

There were other suggestions that some of the District's budget for 2017-2018 prior to amendments were not based upon actual audited figures for 2016-2017. But, remember, the initial budget is a prediction that is amended throughout the year. As Ms. Hanson noted, by the

time of the audit the difference between the budget as amended and the actual audit figures is between 1.5% and 2%.

As the Fact Finder has illustrated, Ms. Eagan, herself a CPA, did realistic in her predictions as to revenue based upon historical data. The one fact that cannot be ignored is there has been a constant three or four and upwards to \$9 million excess revenue over expenses on a consistent basis over the years, despite the representation to the State that there have been cuts. In this year, there are going to be about 560 less students with the corresponding less State aid. There are some teacher reductions, but far from the number needed to offset this change in student body.

The following note to the certified audit for 2016-2017 was not lost on this Fact Finder:

**Note to Required Supplemental Information
Year Ended June 30, 2017**

Budgetary Information - Annual budgets are adopted on a basis consistent with generally accepted accounting principles for the General Fund, all special revenue funds in aggregate, and all debt service funds in aggregate. All annual appropriations lapse at fiscal year end.

The budget document presents information by fund and function, which is the legal level at which expenditures may not legally exceed appropriations. The statement of revenue, expenditures, and changes in fund balances presents capital outlay and other financing sources separately, as required by generally accepted accounting principles. Additionally, the budgetary comparison schedule reflects the transfer of \$1,773,248 from the Enrichment Fund, Bookstore Fund, and Food Services Fund to the General Fund as fund modification, which is how the transfer was budgeted. State law requires the School District to have its budget in place by July 1. Expenditures in excess of amounts budgeted are a violation of Michigan law. State law permits districts to amend their budgets during the year. There were no significant amendments during the year except for the recognition of the sale of vacant land, adjustments to state and federal awards, and the corresponding expenditures for federal grants and state categoricals.

This statement confirms Ms. Hanson's testimony that the budget prepared by Ms. Eagan was and

is consistent with accounting principles and that one of the reasons why the fund balance was stabilized on a one time basis was a transfer in addition to the sale of property of \$1,773,000.

In concluding that the budget that is adopted is realistic and will be subject to amendments and audit, this Fact Finder considered the budget expenditure changes for 2017-2018, recognizing there were some changes in operation, maintenance and transportation in particular. Yet, this is a function of operating the system and because of the need to maintain the fund balance above 5%. There is no reason why these budget priorities will not be modified.

There were also some projections by the MEA about potential revenue. These were purely projections. To repeat, the fact is Utica's revenues over the years have not kept up with expenditures while at the same time Utica has been providing top salaries as compared to other school districts for its teachers. There is no question that adjustments need to be made to stabilize the situation as emphasized by Mr. Connors' letters.

The Position of the Parties

The Utica Education Association

The Utica Education Association has indicated its willingness to make changes in the health care package by transitioning immediately from MESSA Choice II to MESSA ABC in the first year and MESSA ABC to MESSA ABC II in the second year. The UEA also is willing to move the dental insurance from Delta to ADN at the coverage level presented by ADN. In addition, the UEA would agree to life insurance for \$10,000, vision insurance VSP2 Silver and a long-term disability insurance at \$3,000. The UEA also would agree to a modification of co-curricular to a third party which would include all assignments described in Appendix IV as well as elementary/junior high expanded co-curricular club facilitators, all UEA lunch and bus duty

work. As will be further detailed in the District's proposals, the above skeleton description is seemingly agreeable to both parties. The UEA has offered a slow down step schedule for the 2018-2019 contract year and seeks movement for the 2018-2019 academic year of step increases.

Utica Schools

The position of the Utica Schools is set forth below:

***Health Care Insurance**

Option A: MESSA Choices II to MESSA ABC II High Deductible Plan

- Immediate transition
- MESSA ABC" with \$2000/\$4000 Deductible
- 2 furlough days in first year and 4 furlough days in second year
- District to advance deductible to HSA upon request & will be repaid by employee through payroll deduction (yr. 1 only)

Option B: MESSA Choices II to MESSA ABC I in first year; MESSA ABC I to MESSA ABC II in second year.

- Immediate transition
- Increase number of furlough days in first year from 2 to 2.5
- Increase number of furlough days in second year from 4 to 5.

***Health care insurance options only assume a hard cap change date of July 1, 2018 announced in October 2017. These options also assume that the hard cap change following the July 1, 2018 hard cap change would occur January 1, 2019 announced in October 2018.**

Dental Insurance from Delta to ADN

- Immediate transition
- Like coverage level as presented by ADN

Ancillary Insurance MESSA PAK

- Immediate transition to following:
 - o Life Insurance \$10,000
 - o Vision Insurance VSP2 Silver
 - o Long Term Disability Insurance \$3000

Co-Curricular to Third Party

- Transition to be phased in as follows:
 - o Persons who can verify public school service credits (combined actual/purchased) to be within thirty-six months of full retirement vesting will not be required to transition to third party until the full vesting benchmark is reached or July 1, 2021, whichever comes first.
 - o All others transition for start of 2018-2019 school year.
- Includes all assignments described in appendix IV as well as elementary/junior high expanded co-curricular club facilitators, all UEA lunch and bus duty work.

Off Schedule Furlough Days

- 2 days implemented in first year and 4 days in the second year (Health Care Option A)
- 2.5 days implemented in first year and 5 days in the second year (Health Care Option B)
- Furlough day defined as forfeiture of daily base rate.
- Furlough is considered off-schedule as it is not documented on wage scale but is automatically calculated and spread throughout the applicable contract pays.
- Furlough to be identified as non-work days i.e. snow closure days or afternoon release days or professional development days (see possible dates).
- Furlough does not exempt professional responsibilities that may be associated with identified dates i.e. student records, professional development.
- The 2018-2019 furlough days continue in effect until such time as a successor agreement is ratified.

Slow Down Step Schedule

- Implemented for 2018-2019 contract year
- UEA concept three slow down step schedule revised by Board to two slow down step schedule (see exhibit).

One Half-Step on Salary Schedule

- Applied for 2018-2019 contract year in conjunction with slow down step schedule
- Implemented as previously applied in 2013-2014 and

2014-2015. Example 2017-2018 step 4 goes to step 4.5 in 2018-2019.

Duration

- Ratification through June 30, 2019

The Agreed Costs of the Proposals of the Parties

The parties did stipulate to the following numbers as to certain costs of the proposals, namely:

Effective January 2018	2017-2018	2018-2019
Health Care Savings ABC 1- ABC 2 and Hard Cap MESSA ABC 1 - ABC 2 Pak		
ABC 1 1/1/18 - 8/31/18	300,000	150,000 ABC 1 9/1/18-12/31/18 <u>800,000</u> ABC 2 1/1/19-8/31/19 950,000
Dental Insurance Jan - Aug (8 mo.)	533,333	776,000 Assumes District paid Increases 3%
Life, Disability, Vision Jan - Aug (8 mo.)	-6,833	-10,556 Assumes District paid Increases 3%
Total Benefit Savings	826,501	1,715,444
Co-Curricular paid through third party		350,000
Total as Agreed	<u>826,501</u>	<u>2,065,444</u>

Options:

Furlough	
1 Furlough Day	845,900
2 Furlough Days	1,691,800
3 Furlough Days	2,537,700
4 Furlough Days	3,383,600
5 Furlough Days	4,229,500

Step

.5 Step with New Schedule & FICA/Ret	1,350,000
1 Step with New Schedule & FICA/Ret	2,700,000

There was a suggestion that with the loss of students the District would experience a loss of \$1,216,744 as well as a loss in federal revenue of \$700,000. The District disputes the \$1,216,000 figure, suggesting the figure was higher. The fact is, however, this figure and the loss of federal revenue has already been calculated in the proposed 2017-2018 budget as loss of revenue as well as any alleged savings from retirement and replacement, recognizing that the retirements and replacements are at most in the area of 20 individuals. The fact is the District has been experiencing between a \$4-\$5 million expenses over revenue in the last three years in upwards to \$6,000,000. Without the one-time sale of property, to repeat, the fund balance would be at 5% or less and the sale of property is a one time event.

The question is how to stem this cascading financial disaster.

By changing from MESSA Choice II to MESSA ABC1 beginning January 1, 2018 and ABC2 beginning January 1, 2019 as well as referring to ADN dental care and life disability vision, for a total of \$2,891,000. Add to this a savings in the co-curriculum of \$350,000, the total savings between January 1, 2018 and June 30, 2019 would be approximately \$3,241,000. Of course, for the first half of the school year 2017-2018, there were no savings.

The UEA has argued for an improvement in the salary schedule for the 2018-2019 school year. It is difficult to consider recommending such an increase given the dire financial situation of the Utica Schools. Nevertheless, this Fact Finder would recommend a half step which, along with the two step slow down step schedule. This would represent a \$1,350,000 cost. In other words, the net savings would be \$1,940,000. This is hardly enough to stem the cascading yearly deficits running as high as \$5 million or more. Thus, this Fact Finder concludes that there needs to be some furlough days which have a value of \$845,900 per furlough day.

Even if there was no half step increase, the \$3,241,000 savings on health care, which includes a new disability insurance plan, does not address what would seem over the 2017-2018 and 2018-2019 school years based on historical data that previously has been supported by certified audits at a minimum would represent upwards to \$8-\$9 million in expenses over revenue. The \$3,241,000 would be helpful, but would not avoid State intervention. Add the half step increase then the net savings would be \$1,940,000.

The parties could argue with the Fact Finder's rounding up figures, but historical data, supported by a certified audit, any way one looks at the situation dictates that there needs to be more relief by furlough days.

What does this all mean? The District has asked if the Fact Finder recommends Option 2 for two and one-half furlough days for the 2017-2018 year and five furlough days for the 2018-2019 year, or a total of seven and one-half furlough days for a total of another \$6,344. With the difference between the insurance savings and the increased cost of the half step, the potential savings is rounded up as \$8,244,000 over the next year and one-half and against a historical pattern of between \$4-\$5 million or more in excess expenses over revenue per year. Such an analysis would suggest that the District's proposal is more realistic than the proposal from the UEA with no furlough days. The UEA is willing to adopt Option 2. The UEA is insisting on at least a half step in the new schedule. This cannot be done without furlough days.

The Fact Finder concludes that with the contract to expire on June 30, 2019 this should only be a year and one-half on the contract for the financial situation in Utica must continue to be reviewed. Therefore, this Fact Finder will recommend one furlough day for the 2017-2018 year and five furlough days for the 2018-2019 school year. This results in a savings of \$5,100,00.

Add to this the insurance savings less the half step increase and the savings will be approximately \$7,000,000. One could argue that this is not enough with a historical expenses over revenue of between \$4-\$5 million, or depending on the year. This recommendation on this basis could fall short or the recommendation could be very near a reasonable prediction of stabilizing the expenses of the District.

The Effect on Teachers

There were two charts presented by the District that highlight that with the adoption of MESSA ABC 1 through January 1, 2019 and ABC 2 from January 1, 2019 to August 31, 2019, combined with some examples of furlough days, the take home pay would be minimally impacted as set forth in Appendices A and B. A few teachers might be more impacted at the single subscriber level and the six furlough days recommended by this Fact Finder as illustrated by Appendix B. The sooner the recommendations are adopted the sooner teachers will no longer have to pay co-pays such as at the family level of approximately \$5,100. In other words, the teachers will save with the elimination of premium co-pays at the present level. It is true that the ABC plans do add some co-pays for services for those who use the services. However, pursuant to the District's proposal, the District will assist teachers who need financing in the event of the need to pay co-pays for some services. Then, too, the recommendation provides for a half step increase which impacts the take home pay of teachers. It is true there will be furlough days. But unless there is the economic provisions providing for savings and furlough days, the State could well take over the Utica School District or curtail its economic activity to the disadvantage of the teachers. Furthermore, the contract expires on June 30, 2019. At that time, the parties can again review the situation and hopefully the financial situation may be brighter. But unless the

recommendations that follow for the reasons outlined above, the parties will not be able to sustain their current economic situation. The economics are just not there. The State is not funding Utica as Utica should be funded.

A Final Word

This Fact Finder repeats he has nothing but the highest respect for the MEA Economist and, to repeat, has most recently followed her lead in a recent fact finding. However, in this situation, the historical data requires the findings here, hopefully to lead the parties forward. Furthermore, in coming to the conclusions that this Fact Finder has, the bargaining teams should recognize that early on this Fact Finder was convinced of the need for furlough days based upon historical data as confirmed by the certified audits of a distinguished accounting firm.

The Safety

This Fact Finder made it clear that if either party was incorrect, including this Fact Finder, in analyzing the facts, there should be a triggering event so that if the general fund balance does not go down beyond the fund balance of \$20,695,886, which was the fund balance including the land sale for the year ending June 30, 2017, there should be a trigger for the teachers should recoup some of the furlough days. For this reason, this Fact Finder recommends that the contract contain the following safety language:

The unpaid furlough days provided for in this agreement for the 2018-2019 school year shall carry forward until a successor agreement is reached, as provided below.

The district's audited end-of-year fund balance for the year ending June 30, 2017 was \$20,695,866. Should the District's audited end-of-year fund balance for the year ending June 30, 2018 be greater than \$20,695,866, excluding any proceeds from land sales, the District shall reduce the number of furlough days carried forward proportionately.

For example: An unpaid furlough day is valued at approximately \$845,498. If the District's audited 2018 end-of-year fund balance is \$21,541,364, the District shall reduce the number of furlough days by one.

Bargaining

As this Fact Finder represented to the bargaining teams, there is an opportunity to bargain for 60 days after the issuance of this Report. The parties have so stipulated that on receipt of the Fact Finder's recommendations "the parties shall bargain/mediate the recommendations of the Fact Finder for a period of 60 days, which may exclude the academic dismissal periods. It would seem that based upon when the Report will be received by the parties that the 60 days would run through February 28, 2018, which excludes the Christmas holidays. However, it would seem to be in the parties' best interests that this matter be concluded long before February 28, 2018, namely, still in December 2017. Delay is to the disadvantage of teachers for the financial situation in Utica will not be stabilized.

Financial Recommendations

The financial recommendations are as follows:

1. Contract expiring June 30, 2019
2. MESSA Choices II to MESSA ABC I in first year; MESSA ABC 1 to MESSA ABC II in second year.
3. District to advance deductible to HSA upon request and will be repaid by employee through payroll deduction (year 2 only).
4. Immediate transition of all insurance.
5. The number of furlough days for the 2017-2018 school year shall be one day.
6. The number of furlough days for the 2018-2019 school year shall be five days.
7. Delta Insurance from Delta to ADN

- Immediate transition
 - Like coverage level as presented by ADN
8. Ancillary Insurance MESSA PAK
- Immediate transition to following:
 - o Life Insurance \$10,000
 - o Vision Insurance VSP2 Silver
 - o Long Term Disability Insurance \$3000
9. Co-Curricular to Third Party
- Transition to be phased in as follows:
 - o Persons who can verify public school service credits (combined actual/purchased) to be within thirty-six months of full retirement vesting will not be required to transition to third party until the full vesting benchmark is reached or July 1, 2021, whichever comes first.
 - o All others transition for start of 2018-2019 school year.
 - Includes all assignments described in appendix IV as well as elementary/junior high expanded co-curricular club facilitators, all UEA lunch and bus duty work.
10. Off Schedule Furlough Days
- 1 day implemented in first year and 5 days in the second year
 - Furlough day defined as forfeiture of daily base rate.
 - Furlough is considered off-schedule as it is not documented on wage scale but is automatically calculated and spread throughout the applicable contract pays.
 - Furlough to be identified as non-work days i.e. snow closure days or afternoon release days or professional development days (see possible dates).
 - Furlough does not exempt professional responsibilities that may be associated with identified dates i.e. student records, professional development.
 - The 2018-2019 furlough days continue in effect until such time as a successor agreement is ratified.
11. Slow Down Step Schedule
- Implemented for 2018-2019 contract year
 - UEA concept three slow down step schedule revised by Board to two slow down step schedule (see exhibit).
12. One Half-Step on Salary Schedule

- Applied for 2018-2019 contract year in conjunction with slow down step schedule
 - Implemented as previously applied in 2013-2014 and 2014-2015. Example 2017-2018 step 4 goes to step 4.5 in 2018-2019.
13. Duration
- Ratification through June 30, 2019'
14. Safety as recommended

Contract Language

By the time this matter came to fact finding, there were 13 items at issue between the parties concerning changes in contract language or additions to current contract language. This Fact Finder was aware of the issues in mediation and as further developed in fact finding. This Fact Finder now proceeds to address the 13 items and numbers them 1 through 13 and where applicable makes reference to the Collective Bargaining Agreement.

1. *III.A.4 The total hours of compulsory staff meeting time is reduced from 20 hours to 16 hours.*

Discussion: The purpose behind this proposal is to reduce the number of faculty meetings annually from 20 hours to 16 hours per year as well as the number of hours to be counted toward professional development as well as the notice requirements for such meetings. After discussion with the parties and hearing the evidence, the parties indicated they would accept the following recommendation on this proposal reducing the number of hours to 16 hours per year with nine hours counted as professional development and the giving of 48 hours notice. Therefore, the recommendation of this Fact Finder is that the following language on the point be adopted:

ARTICLE III
WORKING CONDITIONS

- A. General:

4. Teachers may be required to attend faculty meetings ~~up to two (2) hours per month~~ **up to a total of 16 hours per year** for the purposes of school concerns, including but not limited to staff and/or departmental communications, ~~six (6)~~ **nine (9)** hours of which will be counted as professional development (reference Article XXIIB). The principal will set the agenda with input from the NCA/SIT chair. A minimum of ~~twenty-four (24)~~ **forty-eight (48)** hour notice will be given prior to holding after school faculty meetings. Should an emergency situation necessitate holding an afterschool faculty meeting without giving ~~twenty-four (24)~~ **forty-eight (48)** hour notice, the building principal will consult with the Association Building representative. In the event the building principal has exhausted the contractual allotted time, additional time or meetings may be arranged with the mutual consent of the Association and the Administration.

2. *III.A.14 Teachers who are required to act as substitute teachers on their preparation period are allowed to choose between pay or 1 hour of paid leave accrual.*

This proposal addresses the issue of teachers who are asked to substitute during their preparation period. Presently, teachers who do substitute during their preparation period have the choice of being paid for the preparation period. The Utica Education Association proposes another option, namely, at the option of the teacher to have the one hour of substitute time during prep period added to the teacher's paid leave accrual without limitation. The Board proposes to limit the accrual to up to two days of paid leave accrual.

Discussion: This is an additional benefit. The District believes there should be some limitation on the accrual. Since this a new provision to the Fact Finder it seems reasonable that there be a limit on the number of hours that can be added to the teachers' leave bank since this is a new option that heretofore has not been provided in the District to ascertain its overall feasibility. For this reason, this Fact Finder will make the following recommendation:

Whenever possible, Human Resources will provide for absent classroom teachers substitutes who possess appropriate certification, experience and/or interest in the absent teachers' subject area/level. In the event a substitute is not available and a teacher acts as the substitute during their preparation period, they may choose between hourly compensation and adding one (1) hour of compensated leave time to their bank with a limit of two (2) days.

This is the recommendation of this Fact Finder on this subject.

3. *III.B.7 The number of minutes or preparation time guaranteed to Elementary Teachers shall be 250minutes. This reflects the current practice for the majority of members.*

After discussing this matter with the parties in fact finding, the parties TA'd the following language which this Fact Finder will recommend on this issue:

ARTICLE III
WORKING CONDITIONS

A. Elementary:

7. Elementary teachers shall be provided an average of ~~230~~ **TWO-HUNDRED FIFTY (250)** minutes weekly for conference/preparation. This time shall be in blocks of not less than thirty (30) minutes. **SPECIALISTS CONFERENCE/PREPARATION BLOCKS SHALL NOT BE LESS THAN TEN (10) MINUTES, WITH AT LEAST THREE (3) BLOCKS OF FIFTY (50) MINUTES OR MORE. CONFERENCE/ PREPARATION TIME MAY INCLUDE CONFERCING FOR EVALUATIVE PURPOSE.**
4. *III.E.1 The length of the secondary student school day shall not exceed 7 hours. This reflects the current practice.*

This Fact Finder is not convinced that there needs to be a change in the contract language as to the length of the secondary student school day and for this reason will recommend that the proposal not be adopted.

5. *Leave of Absence*

The teachers have presented some language under Leave of Absence that clarifies compensatory leave and bereavement which did not seem to be an issue between the parties and seemed to clarify the meaning of the language. What is new is that for teachers eligible to utilize FMLA leave as permitted by statute under the circumstances of that statute, the District only permits payment up to 10 days annually. FMLA is unpaid leave unless the policies of the employer permit the use of sick time payments when utilizing FMLA. To this Fact Finder, it would seem that if the teacher qualifies, and that is a big if, and the teacher has paid accumulated leave days, the teacher should be able to use those days. This Fact Finder appreciates that there may be some cost involved but not the full 60 days and limited to 30 days, recognizing there needs to be some cost constraints given the District's financial condition. This is, however, an improvement over current language. Therefore, this Fact Finder recommends the following language:

ARTICLE XIII
LEAVE OF ABSENCE

- D. Compensated Leaves: deducted from individual's accumulated sick *paid leave* days.
 - 2. Family Illness: Bonafide pressing need due to illness of a teacher's spouse, *domestic partner*, children, *step-children*, parents, *step-parents*, grandparents, *siblings*, *in-laws* or dependents to a total often (10) days annually, *unless FMLA eligible*.
 - 4. Bereavement:
 - a. Leave up to a maximum of six (6) days when required will be granted in the case of the death of a teacher's ~~father, mother, father in-law, mother in-law, parent, in-law, partner~~, spouse, children, ~~brother, sister, brother in-law, sister in law~~, *sibling*, grandmother, grandfather, *grandparent*, dependents, or *other* members of immediate household.

- b. One (1) day leave may be granted for funerals of persons other than those persons listed in Article XIV, D.4.a. above.

6. *(NEW) FMLA: Teachers may utilize paid leave days from their personal bank for documented FMLA up to thirty (30) paid leave days per FMLA qualifying year.*

6. *VE (NEW) Creation of a multi-disciplinary committee to provide expertise and support for teachers working with violent students.*

Discussion: This Fact Finder does not recommend the proposal as to a multi-disciplinary committee as to violent students for the reason that there are in place currently District policies addressing violent students. This Fact Finder has not been convinced that there is a need for any contract language on this subject, given the policies in place, and will recommend that this proposed language not be adopted.

6. *XIII.D.8.c Teachers required by subpoena to appear in court on a matter directly related to their employment with UCS shall be paid in full without utilizing their own accumulated paid leave.*

This request is vague in application as to what may involve a matter directly related to employment. This could be an expansive provision that could cause difficulty in application such as custody disputes between parents. For this reason, this Fact Finder has not been convinced that this provision be in the contract. There are subpoena fees that properly offset the expense if subpoenas come to pass. For this reason, this Fact Finder will not recommend that this language be adopted.

7. *The UEA Sick Bank is available only to UEA Members in good standing.*

This Fact Finder understands the concern of the UEA with this proposal, but there is a question of its legality and for this reason this Fact Finder will not recommend this provision.

8. *XXI.C Upon retirement, teachers will be paid \$40 per accumulated day over 10 days.*

The Utica Education Association does make a point by encouraging teachers not to burn up leave days near the end of their careers. There are two problems, however, with this provision. It represents a cost in a District that has a structural deficit. This is not the time to add costs to the contract. Second, the teachers of Utica have great pride in their work and the Fact Finder is not convinced that the teachers are deliberately burning up time that needs to be addressed. For this reason, this Fact Finder will not recommend this proposal.

9. *Utica 2020 (NEW) UEA/USC Joint committee to review current program, identify efficiencies and re-think school structure and program.*

This Fact Finder from day one has concluded that this is not an appropriate provision for the contract as it represents the province of the elected Board of the Utica School District. For this reason, it may be that the Board will have to continue to review the program in Utica and the school structure. But this is a management function that does not appear in collective bargaining agreements. Nor was it shown to this Fact Finder that such provisions are prevalent in collective bargaining agreements. For this reason, this provision will not be recommended.

10. *Calendar Waiver The first student report day will be prior to Labor Day in order to capture registration/"meet the teacher" as a student day of attendance.*

Discussion: The above provision will not be recommended simply because it involves obtaining a waiver from the State. There are problems in dealing with the public and the Fact Finder will recommend that the calendar waiver provision be made as part of the contract at this time.

11. *Elementary Report Card UEA/USC joint committee to re-write the*

elementary report card.

12. *Elementary Specialist Report Card UEA/UCS joint committee to develop a report card for elementary specialists (art, gym, media center and music).*

Discussion: This Fact Finder has combined the discussion of Paragraphs 11 and 12, namely, the question of elementary report cards and elementary specialist report cards. Both in mediation and in fact finding, this Fact Finder has heard a refrain from the teachers that there is a need to revise or update the system of elementary report carding and elementary specialist report carding for the benefit of the students, their parents and the educational goals of the District. Using a refrain in a current commercial, this Fact Finder says “I hear you”.

In the view of this Fact Finder, the issue of the report cards is best handled by bi-party equal committee through a Letter of Understanding. The Letter of Understanding would expire when the contract at issue expires on June 30, 2019. The committee would have a goal, but the decision of the committee would not be mandatory. Nevertheless, if the committee has equal representation from administration and the teachers and there is a consensus from the committee to argue that the administration and the Board would not consider the concession, is just not persuasive to this Fact Finder because, in the end, the consensus would be by professionals – both administrators and teachers – with the administrators having the confidence of the Board and Superintendent and the teachers having the confidence of the leadership of the Utica Education Association.

If there is no consensus or if there is rejection of the recommendations, then a more persuasive argument can be made in the subsequent contract for more precise language. For now, consensus would seem to be the preferable way of addressing the issue through a Letter of

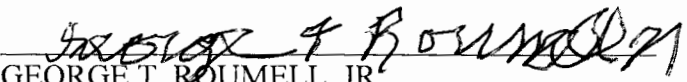
Understanding.

It is based upon this analysis that this Fact Finder will recommend that attached to the contract will be the following language:

A study committee comprised of three (3) members of administration appointed by the Superintendent and three (3) members appointed by the Utica Education Association shall be formed within two (2) weeks of the ratification of the 2017-2019 contract with the direction of presenting a plan to the Board of updating the elementary report card for implementation before the opening of the 2019-2020 school year. Furthermore, a study committee comprised of three (3) members of administration appointed by the Superintendent and three (3) teachers appointed by the Utica Education Association, with one of the designees of the administration and at least one of the designees of the teachers being elementary school specialists, shall be formed with the goal of establishing an elementary specialist report card on or before the opening of the 2020 school year.

The above committee shall make recommendations if a consensus is reached. This Letter shall expire by its terms on June 30, 2019.

This is the Recommendation of this Fact Finder.


GEORGE T. ROUMELL, JR.
Fact Finder

December 5, 2017

Utica Community Schools Permutations of Teacher Salary, Healthcare Plans and Furlough Days

Salary Range	Base Salary	Current Coverage	Employee Premium Cost	Base Salary less Premium	2 Furlough Days	Base Salary Minus Furlough Days
low	\$ 39,310.00	Family	\$ 5,063.16	\$ 34,246.84	\$ 427.28	\$ 38,882.72
mid	\$ 70,329.00	Family	\$ 5,063.16	\$ 65,265.84	\$ 764.45	\$ 69,564.55
high	\$ 91,006.00	Family	\$ 5,063.16	\$ 85,942.84	\$ 989.20	\$ 90,016.80
low	\$ 39,310.00	2-person	\$ 4,688.04	\$ 34,621.96	\$ 427.28	\$ 38,882.72
mid	\$ 70,329.00	2-person	\$ 4,688.04	\$ 65,640.96	\$ 764.45	\$ 69,564.55
high	\$ 91,006.00	2-person	\$ 4,688.04	\$ 86,317.96	\$ 989.20	\$ 90,016.80
low	\$ 39,310.00	single	\$ 1,660.32	\$ 37,649.68	\$ 427.28	\$ 38,882.72
mid	\$ 70,329.00	single	\$ 1,660.32	\$ 68,668.68	\$ 764.45	\$ 69,564.55
high	\$ 91,006.00	single	\$ 1,660.32	\$ 89,345.68	\$ 989.20	\$ 90,016.80

Salary Range	Base Salary	Current Coverage	Employee Premium Cost	Base Salary less Premium	4 Furlough Days	Base Salary Minus Furlough Days
low	\$ 39,310.00	Family	\$ 5,063.16	\$ 34,246.84	\$ 854.57	\$ 38,455.43
mid	\$ 70,329.00	Family	\$ 5,063.16	\$ 65,265.84	\$ 1,528.89	\$ 68,800.11
high	\$ 91,006.00	Family	\$ 5,063.16	\$ 85,942.84	\$ 1,978.39	\$ 89,027.61
low	\$ 39,310.00	2-person	\$ 4,688.04	\$ 34,621.96	\$ 854.57	\$ 38,455.43
mid	\$ 70,329.00	2-person	\$ 4,688.04	\$ 65,640.96	\$ 1,528.89	\$ 68,800.11
high	\$ 91,006.00	2-person	\$ 4,688.04	\$ 86,317.96	\$ 1,978.39	\$ 89,027.61
low	\$ 39,310.00	single	\$ 1,660.32	\$ 37,649.68	\$ 854.57	\$ 38,455.43
mid	\$ 70,329.00	single	\$ 1,660.32	\$ 68,668.68	\$ 1,528.89	\$ 68,800.11
high	\$ 91,006.00	single	\$ 1,660.32	\$ 89,345.68	\$ 1,978.39	\$ 89,027.61

Source: Stephanie Eagen, Assistant Superintendent, Business & Auxiliary Services, Utica Community Schools, 11/15/17.

Impact of Furlough Days on Employees Taking Health Care

Permutations of Number of Employees Who May Be Impacted By Furlough Days				
<u>No. of Employees</u>	<u>Healthcare Plan</u>	<u>4 Furlough Days</u>	<u>5 Furlough Days</u>	<u>6 Furlough Days</u>
192	Single	112	133	159
153	2-Person	0	0	0
942	Family	0	0	0
Percent of Employees Negatively Impacted		8.70%	10.33%	12.35%
Percent of Employees Positively Impacted		91.30%	89.67%	87.65%

APPENDIX B

Note: The above chart reflects the impact of both the ABC 1 and ABC 2 Healthcare Plans. The vast majority of employees who receive healthcare would not experience a diminution in take home compensation if either ABC 1 or ABC 2 is adopted.

For example, Utica Community Schools currently has a total of 1287 teachers receiving healthcare. If the District were to implement 4 furlough days, then 112 teachers, who receive health care in the single person category, would be negatively impacted. As a percentage these 112 employees equates to 8.7 percent of the total number of teachers receiving healthcare. The vast majority of teachers, 91.3 percent, would not receive a diminution of take home pay if the District were to implement 4 furlough days.