

**2015-2016**

**MASTER AGREEMENT**

**BETWEEN THE**

**FRUITPORT COMMUNITY SCHOOLS**

**BOARD OF EDUCATION**

**AND THE**

**FRUITPORT INSTRUCTIONAL ASSISTANTS ASSOCIATION,**

**MEA-NEA**

**July 1, 2015 through June 30, 2016**

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## **AGREEMENT**

This Agreement is entered into this 10th day of June, 2015, by and between the Board of Education of the Fruitport Community Schools, Fruitport, Michigan, hereinafter called the "Board" and the Fruitport Instructional Assistants Association, MEA-NEA, hereinafter called the "Association."

### **ARTICLE 1**

#### **RECOGNITION**

- A. Pursuant to MERC Case No. 91L-276, the Board hereby recognizes the Association as the exclusive bargaining representative as defined in Section 11 of Act 379, Public Acts of Michigan 1965, as amended, for all full-time and regular part time Instructional, Special Education and Chapter I aides; but excluding noon moms, supervisors and all other employees.
- B. The term "employee" when used hereinafter in the Agreement, shall refer to all employees represented by the Association in the bargaining unit as above defined and references to male employees shall include female employees and vice versa.
- C. The Board agrees not to negotiate with or enter into any agreement with any employee organization other than the Association for the duration of this Agreement.
- D. Severability and Saving

In the event any provision of this Agreement is in conflict with any existing or future federal, state or local laws or regulations, the portion of the provision that is in conflict shall be rendered inoperative and the Employer shall take all actions necessary to comply with the pertinent laws or regulations. The remainder of this Agreement shall not be affected thereby.

### **ARTICLE 2**

#### **BOARD RIGHTS**

- A. The Board, on its own behalf and on behalf of the electors of the district, hereby retains and preserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and the constitution of the State of Michigan, and of the United States, including but without limiting the generality of the foregoing, the right:
  - 1. To executive management and administrative control of the school system and its properties and facilities.

2. To hire all employees and, subject to the provisions of law, to determine their qualifications and the conditions for their continued employment, or their dismissal, and to transfer such employees.
  3. To determine the hours of employment and the duties, responsibilities, and assignments of employees with respect thereto.
  4. To change and eliminate job classifications, to establish new classifications and the work content of existing classifications.
  5. To determine the labor requirements and to determine and adjust the size of the work force and to determine and adjust the schedules of work and the means, methods and procedures of work.
- B. The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the Board, the adoption of policies, rules and regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and expressed terms of this Agreement and then only to the extent such specific and expressed terms hereof are in conformance with the constitution and laws of the State of Michigan and the United States.

### **ARTICLE 3**

#### **EVALUATIONS, DISCHARGE, AND DISCIPLINE**

A. Evaluations

Evaluations will be done each year, except for employees with less than six months' seniority. The teacher, building administrator and/or other designated administrator is responsible for completing the evaluation by May 30th of each year. Each employee will be given a copy of the evaluation form at the time of initial employment and at the beginning of each school year. Completed evaluation forms and all accompanying responses will be placed in the employee's personnel file.

B. Probationary Employees

Probationary employees may be discharged, disciplined or laid off for any reason with or without cause except for lawful Union activity without recourse of the grievance procedure.

C. Representation at Meetings

Upon request, an employee shall be entitled to have present a representative of the Association during any meeting to discuss disciplinary action.

D. Personnel File

Each employee shall have the right, upon request, to review the contents of his/her own personnel file which were made part of the file after the date of his/her employment. The Board may have a representative present during the review to protect the content of the personnel file.

E. Complaints

No complaints against a bargaining unit member, including, but not limited to, student, parental or school personnel complaints originating after initial employment will be placed in a bargaining unit member's personnel file unless the bargaining unit member has had an opportunity to review the complaint. The bargaining unit member may submit a written notation or reply regarding any material, including complaints, and the same shall be attached to the file copy of the complaint in question.

F. No non-probationary employee shall be disciplined, discharged or deprived of a contractual benefit without just cause.

**ARTICLE 4**

**GRIEVANCE AND ARBITRATION PROCEDURE**

A. Definitions

1. Grievance. A "grievance" is an alleged violation of this Agreement.
2. Grievant. The "grievant" is the person or persons making the claim and may be an employee, a group of employees, or the Association.
3. Work Days. The term, "work days", when used in this Article, shall mean Monday, Tuesday, Wednesday, Thursday, and Friday of any week.

B. Failure to comply - Time Limits

If the grievant fails to comply with the time limit or the grievance is not appealed to the next step, it shall be considered withdrawn. If the Board as the responding party fails to comply with any time limit at any step, the grievance shall be allowed to pass to the next step in the grievance procedure. The parties may however, agree to extend the time limits at any step. In the case of a grievance involving any continuing monetary liability, the Board shall not be obligated for any compensation or back pay for any period more than fifteen (15) work days prior to the filing date of the grievance.

C. Right of Employee to Have Grievance Adjusted

Nothing contained in this article shall be construed to prevent any individual employee from presenting a grievance, appealing a grievance short of arbitration, or having a grievance adjusted without intervention by the Association; provided that any such adjustment is not inconsistent with the terms of this Agreement, and providing further that the Association has been given an opportunity to be present at such adjustment.

D. Grievance Procedure

Step One. The Association shall reduce the grievance to writing together with a proposed solution thereto and shall deliver a copy of the grievance to the immediate supervisor.

The grievance shall be filed no later than fifteen (15) work days from the date of the occurrence or the date the grievant should have known of the occurrence of the alleged violation of the Agreement. The written grievance shall be titled "Statement of Grievance" and will attempt to include all of the following information:

The name of the grievant or grievants.

The names of all other persons involved.

The number and title of any and all articles of this Agreement alleged to have been violated, and by appropriate reference the sections and paragraphs of such articles alleged to have been violated.

A full statement of the facts giving rise to the grievance.

The contention of the grievance or grievants as to how the facts indicate violation of this Agreement.

The relief requested.

Within ten (10) work days of the receipt of the grievance, the immediate supervisor shall meet with the Association's designated representative in an effort to resolve the grievance. The grievant, at his/her discretion, may be present at such meeting. Within four (4) work days of the above meeting the immediate supervisor shall deliver a written answer to the grievance to the Association's designated representative either granting or denying it, and if it is denied, stating the reasons for denial.

Step Two. In the event the grievance is not satisfactorily resolved at Step One, the Association's designated representative, within five (5) work days of his/her receipt of the answer, or within five (5) work days of the due date of the answer, may transmit the grievance in written form together with a proposed solution thereof to the Superintendent. Within ten (10) work days of the receipt of the grievance, the Superintendent shall meet with the Association's designated representative in an effort to resolve the grievance. The grievant, at his/her discretion, may be present at

such meeting. Within seven (7) work days of the above meeting, the Superintendent shall deliver a written answer to the grievance to the Association's designated representative either granting or denying it and if it is denied, stating the reasons for denial.

Step Three. If the grievance is not resolved in Step Two, it may be appealed to the Board by the Association's designated representative within five (5) work days after the receipt of the Step Two answer or within five (5) work days of due date of the written answer in Step Two. Such appeal shall be in writing and delivered to the President or the Secretary of the Board, and shall state the reasons for the Appeal and shall be accompanied by copies of the grievance chain (grievance, attachments, answers). The Board, at the next regular meeting following receipt of the grievance by the Secretary of the Board, will consider the grievance and will give its answer in writing within seven (7) work days after the date of such regular meeting.

Step Four. Arbitration. In the event the answer by the Board is not satisfactory to the Association, then within thirty (30) calendar days following the date of receipt of the Board's answer the Association only, and not an individual employee, may file a demand for arbitration of the dispute to the American Arbitration Association with a copy of the demand delivered to the Superintendent, all pursuant to the following rules and conditions:

The grievance shall relate solely to the application and interpretation of the terms and conditions of this Agreement.

The Arbitrator shall have no authority to add to, subtract from, modify, change, alter or amend the terms and conditions of the Agreement and he/she shall have no authority to hear or rule upon any of the following:

Any matter involving the Board's discretion in the expenditure of funds for capital outlay;

The fixing or establishment of any salary schedule;

The termination of or decision not to reemploy any probationary employee;

Evaluation of employee, unless it is a claim of failure to follow established procedures or the evaluation is being used to justify a disciplinary action or discharge.

The decision of the Arbitrator shall be final and binding.

Upon receiving a list of arbitrators from the American Arbitration Association, the parties shall attempt to agree upon an arbitrator. If no agreement can be reached, he/she shall be selected by the rules of the American Arbitration Association. The parties shall be bound by the rules of the American Arbitration Association.

Only one grievance shall be heard by an arbitrator at any one appointment.

The costs and expenses of the arbitrator shall be shared equally by the parties.

Any grievance not taken to arbitration within the above stated time limits shall be deemed settled based upon the Board's last answer.

E. No Strike Clause

The Association, its officers, agents, affiliates, members, and employees agree that there will be no strikes, sit-downs, stoppages of work, slow-downs, picketing, boycott, withholding of services, or any unlawful acts that interfere with the Board's operations. Any violation of the foregoing may be made a subject to disciplinary action, including discharge or suspension, and this provision shall not be by way of limitation on the Board's right to any other remedy under law for such violation.

**ARTICLE 5**

**WORKING CONDITIONS**

A. Probationary Period

New employees hired or transferred into the bargaining unit shall be considered on probation until they have worked ninety (90) working days. After the probationary period, the employees shall be entered on the seniority list as of the date of hire or transfer into the bargaining unit.

B. Overtime

Time and one-half will be paid for any time worked over 40 hours per week. In lieu of receiving overtime pay, the employer and employee may mutually agree that the employee receive compensatory time. Compensatory time off in lieu of overtime pay shall be provided at a rate of one and one-half hours of compensatory time for each hour of overtime worked. Each employee shall be allowed to accumulate up to 240 hours of compensatory time, i.e., 160 hours of actual overtime work. Accrued compensatory time may be used as mutually agreed or as requested by an employee provided it does not unduly disrupt the District's operations. An employee may on a twice-a-year basis cash out up to a maximum of 24 hours of compensatory time by written request signed by the employee no later than December 1 and/or June 1 each year.

Payment of the compensatory time shall be made within fifteen (15) calendar days of the written request.



Any accrued compensatory time for an employee that is remaining as of June 30 each year shall be paid to the employee.

C. Breaks

Each employee working more than a three (3) hour but less than a five (5) hour shift shall be given the opportunity of taking a 15 minute break during the shift. Each employee working at least a five (5) hour shift shall be given the opportunity of taking a 15-minute break during morning and afternoon.

D. Time Clock

All employees may be required to punch a time clock, including whenever they leave the building during normal working hours. All employees who work at least four (4) hours a day are entitled to an unpaid one-half hour lunch period.

E. Inclement Weather

In the event that scheduled student attendance days are canceled due to inclement weather or other physical conditions, employees shall not be required to report to work and shall suffer no loss of pay for the first three (3) such days during the school year. On days of inclement weather or other physical conditions where employees are directed to leave work early or report late by the Superintendent or his/her designee, the employees shall receive their normal day's pay.

F. When an Instructional Assistant is absent from work, the Administration shall be responsible for arranging for any substitute.

G. When an employee is scheduled to be on duty and out of his/her assigned building with students at lunch time and/or coffee break time, the employee shall be paid for said time.

H. Instructional Assistants are not primarily responsible for loading students in wheelchairs onto school buses or buckling/harnessing students into place on the bus. However, they are expected to provide reasonable assistance when needed.

I. Professional Development

Instructional assistants shall be provided inservice education on the full and half days when the entire teaching staff is scheduled for inservice programs. Employees will be required to attend professional development activities during the school year unless excused by their immediate supervisor. Employees will be compensated at their regular hourly rate of pay for attendance. The planning of the inservice topics shall be the responsibility of the Board with suggestions from the Association and/or employees welcomed.

J. IEPC's

Instructional assistants shall attend IEPC's when requested by the teacher and authorized by the supervisor. Employees shall be compensated for their attendance including meetings scheduled during lunch periods and before /after regular working hours.

K. Administration of Medication to Students

The administration of medication will be done in accordance with Board Policy 5330 and Section 380.1178 of the Michigan School Code, which will be posted in all buildings.

**ARTICLE 6**

**VACANCIES & TRANSFERS**

- A. Vacancies shall be considered as a bargaining unit position which the Board intends to fill.
- B. Whenever a vacancy or new position occurs within the bargaining unit, the Board shall publicize the same by placing written notice of the vacancy in the main office of each building in the school district and mailing a copy to any employee on layoff. The vacancy shall not be filled for a period of five (5) work days except on a temporary basis. A vacancy notice shall also be mailed to any employee upon request provided the employee provides a stamped, self-addressed envelope.
- C. Any member of the bargaining unit may apply for any posted vacancy. In the event a vacancy occurs as a result of the Board reinstating a position that was eliminated during the previous calendar year, the employee that held the position at the time of the elimination shall have the right to return to the position. Unless provided otherwise (as immediately above) in the agreement, the most senior qualified applicant shall be granted the vacancy.
- D. Any successful applicant for a vacancy shall have a trial period of thirty (30) working days on the job. If the employee is not performing satisfactory service, the Board has the right to re-assign the employee back to his/her former position at any time during the trial period. The employee shall also have the right to return to his/her former position at any time during the trial period. Any employee electing to return to his/her former position shall be prohibited from signing any other posting for the next ninety (90) calendar days.
- E. An employee who is transferred to a position with the Board that is outside the bargaining unit shall retain seniority but shall not accumulate seniority for a period of one year, at which time the employee must return to the bargaining unit or lose his/her seniority.. The employee shall not cause the layoff of any bargaining unit member in the event the employee is transferred back into the bargaining unit.

- F. The layoff and recall provisions of this Agreement shall prevail over the provisions of this Article.

## ARTICLE 7

### LAYOFF & RECALL

- A. "Seniority" shall mean the length of uninterrupted service with the employer since the employee's last date of hire or transfer into the bargaining unit and shall be computed in calendar days. Time spent on approved leave or layoff shall not be an interruption in service and seniority shall continue to accrue. When an employee completes his/her probationary period the employee shall be entered on the seniority list as provided above. There shall be no seniority among probationary employees.

In the event that two or more employees have equal seniority, the following criteria will be used to break the seniority tie: first, the employee with the greatest amount of years of service with the school district shall be considered the more senior. If the employees remain tied, then a random selection procedure that is mutually agreeable between the board and the association shall be used to break the seniority tie. The results shall be recorded on the seniority list.

- B. An employee shall lose his or her seniority for the following reasons:
  - 5.1 If the employee quits or retires.
  - 5.2 If the employee is discharged and the discharge is not reversed.
  - 5.3 If the employee does not return to work when recalled from layoff as set forth in the recall procedure.

- C. Seniority List

The Board shall prepare and submit to the Association within thirty (30) calendar days of the ratification of this Agreement a Seniority List showing the names, last date of hire or transfer into the bargaining unit, computed seniority and job title for all members of the bargaining unit. The Board shall keep the Seniority List up to date and shall provide the Association with updated copies at least once every year in sufficient quantity for distribution to all bargaining unit members. During the yearly period, the Board will advise the Association President of any changes in the Seniority List in writing within ten (10) work days after said changes.

- D. "Layoff" shall mean a reduction in the work force. The employer shall provide an affected employee with at least fifteen (15) work days notice of his/her layoff if it occurs during the school year and at least thirty (30) calendar days notice before the first scheduled student day of the upcoming school year if it occurs between school years.

E. Layoff and Recall Procedure

In the event that an employee's position is eliminated, or the employee is bumped, said employee shall have the right to bump either (1) the employee with the least seniority among those employees with equal or more scheduled work hours, or (2) the employee with the least seniority among those employees with less scheduled work hours; provided said employee is qualified for the position.

In the event that an employee's scheduled work hours are reduced by more than two and one-half (2-1/2) hours or more a week, said employee shall have the right to bump the employee with the least seniority among those employees with equal or more scheduled work hours; provided said employee is qualified for the position.

The employee shall have no more than seven (7) calendar days after receipt of his/her layoff/reduction of hours notice to exercise his/her right to bump.

When a vacancy occurs, employees who are on layoff shall be recalled in the order of most seniority first, provided that the vacancy isn't filled by another employee that has applied for the vacancy and provided that the employee is qualified for the job.

Notice of a recall shall be sent to the employee at the last known address by registered or certified mail. Notice shall be given by the employee of his or her intent to return to work within three work days of receipt. If an employee fails to report for work within five working days of the scheduled date to return to work, he/she shall be considered a quit. Employees on layoff shall not be required to accept recall to a position with less work hours scheduled compared to the position they were laid off from, and such refusal shall not affect their recall rights.

The Board shall mail notices of vacancies that arise in non-certified positions to the President of the bargaining unit when unit members are on layoff.

F. The parties agree that part-time positions shall be consolidated into full-time positions to the extent possible (i.e. positions shall be consolidated so that the resulting positions have as many hours as possible.)

## ARTICLE 8

### LEAVES OF ABSENCE

#### A. Definitions

1. "Immediate family" shall mean current spouse, father, mother, child, step-child, a child for which the employee has been appointed guardian by a court or agency, sister, brother, parent-in-law, grandchild, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandparents.

#### B. Paid Leave Accumulation

Each September 1st (or as soon thereafter as the employee's work schedule for the following school year is settled), each employee shall be credited with the number of sick leave hours equal to one (1) hour for every eighteen (18) hours the employee is scheduled to work during the following school year. Upon employment or transfer into the bargaining unit, an employee, until his/her first September 1st in the bargaining unit, shall accrue one (1) hour of paid leave for every eighteen (18) hours worked or paid for.

Paid sick leave shall accumulate to a maximum of 1440 hours. A statement of accumulated leave hours will be provided at the beginning of each school year.

#### C. Paid leave days may be used as follows:

##### Personal Sick Leave

Employees may use available leave time as necessary to recover from a personal disability. The Board, within reason, may require a physician's certificate to verify the disability.

##### Illness/Injury in Immediate Family

Employees may use paid leave days for illness or injury in the immediate family.

#### D. Special Provisions

In case of emergency, an employee may leave the job for a length of time during a work day. Prior approval from the immediate supervisor must be granted before such leave is taken. At the employee's option, the length of work time may be charged against the appropriate paid leave time available to the employee, a deduction in pay may be taken, or the time shall be made up at a time scheduled by the employee's immediate supervisor.

E. Other Paid Leave

Personal Leave

The equivalent of two (2) days a year may be used for personal business. Personal days do not accumulate. Personal leave shall be used only for business that cannot be handled outside of usual working hours and shall not be used for recreational purposes. Application for personal leave must be made in writing 24 hours in advance. Permission must be received from the immediate supervisor. Unused personal leave days shall be added to the employee's accumulated sick leave.

For absence caused by required jury duty and Court appearance as a witness in any case connected with employment with the district provided that the matter does not involve proceedings brought against the Board or the District by the employee or the Association, the employee will be compensated the difference between daily wages reflecting a normal work schedule for that employee and the jury or witness fee.

F. Leaves of absence without pay

Family and Medical Leave Act

The Board will provide covered employees up to twelve (12) weeks of unpaid job-protected leave for certain family and medical reasons. Employees who have worked for the Board for at least twelve (12) months and for 1,250 hours over the previous twelve (12) months of employment are eligible. In all respects, leaves of absence under this policy shall be administered and provided for in a manner consistent with the Family and Medical Leave Act of 1993 ("FMLA") and its published regulations. The provisions of this Section shall prevail in any case of conflict with any other provision of this Agreement, except where the contractual provisions in conflict exceed that of the FMLA.

Purpose of Leave - Unpaid leave may be granted for any of the following reasons:

To care for the employee's child after birth or placement for adoption or foster care;

To care for the employee's spouse, son, daughter or parent who has a serious health condition; or

For a serious health condition that makes the employee unable to perform the employee's job.

Notice Certification - When the need for leave is foreseeable, employees are expected to provide thirty (30) calendar days' advance notice. When not foreseeable, employees are required to provide notice of the need for leave as soon as practicable. Failure to provide appropriate notice may result in the denial of leave. The board will require medical certification to support a

request for a leave because of a serious health condition and may require second or third opinions (at the Board's expense) and a fitness for duty report to return to work.

Coordination With Other Forms of Leave and Time Off - Any of an employee's available accrued sick leave may, at the option of the Board or the employee, be substituted for any part of the 12-week period, provided that Article 8, Section C allows the use of accrued sick leave for such purpose. All time off work which meets the definitions under FMLA will be charged against the yearly FMLA allowance.

To the extent that matters arise pertaining to the FMLA which are not addressed by the above provisions, the parties agree that the Employer shall have the right to develop, approve and implement policies which comply with the FMLA and are not contrary to or inconsistent with the terms of this Agreement.

#### Other Unpaid Leaves

Upon application by an employee, a leave of absence without pay or fringe benefits will be granted for the following reasons:

Child Care Leave

Illness - Physical or Mental

Prolonged illness in the immediate family

Other reasons if approved by the Superintendent.

All such leaves shall be granted for up to one year and may be extended by mutual agreement. . Employees' medically documented personal disability may be granted up to two (2) years or may be extended by mutual agreement. The employee shall be returned to his/her former position unless it is being held by an employee with more seniority or his/her former position has been eliminated, in which case the returning employee shall be treated as if his/her position has been eliminated pursuant to Article 7, E.

Unpaid leaves of absence in excess of twenty (20) scheduled work days shall be without paid fringe benefits, except that disabled employees on an unpaid leave shall continue to receive paid fringe benefits for at least one (1) month after the month in which his/her disability begins. Upon approval of, and subject to the limitations established by the respective insurance carrier, insurance benefits may be continued at the employee's expense by paying the appropriate premiums at the payroll office.

#### G. Funeral Leave

In addition to the paid leave days above, funeral leave will be granted for up to five (5) consecutive working days, per occurrence, for death in the immediate family. It is expected that funeral leave will be utilized for the purpose of attending to the needs of the family in the event of such loss and for attending the funeral. Such leave may not be used for the purposes of vacation, recreation or other reason. Such leave shall include the day of the funeral. Certification or verification may be required.

H. Unused Accrued Leave

Effective July 1, 2006, an eligible employee may on a once-a-year basis elect to convert up to a maximum of two (2) weeks paid leave hours into a calendar year-end bonus at the rate of Five Dollars and Fifty Cents (\$5.50) per hour. To be eligible for such a bonus, an employee must maintain a balance of at least twenty (20) accrued paid leave days in his/her account after the conversion of the paid leave days. Requests for bonus payments shall be given to the Employer in writing and signed by the employee no later than December 1 each year. Payment of the bonus shall be made in December.

Upon retirement from the Fruitport Community Schools, the employee shall be paid an amount equal to Five Dollars and Fifty Cents (\$5.50) times the number of accumulated paid leave hours he/she has accumulated. To qualify, the employee must qualify for retirement under the Michigan Public School Employees Retirement System.

I. Association Leave

Beginning July 1 each year, the Association shall be credited with a total of three (3) paid days to be used by Association officers or its agents, such use to be at the discretion of the Association, but with the Superintendent's or his/her designee prior approval. Days shall be non-accumulative.

**ARTICLE 9**

**HOLIDAYS**

A. All employees shall receive the following days off with pay:

Labor Day  
Thanksgiving Day  
Day After Thanksgiving Day  
Day Before Christmas  
Christmas Day  
Day Before New Year's Day  
New Year's Day  
Memorial Day

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



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

A personal business leave day shall not be granted for the day preceding or the day following holidays or vacations, and the first and last days of the school year.

## ARTICLE 10

### FRINGE BENEFITS

#### A. BENEFITS

Eligible employees may elect either Plan A or Plan B as follows:

##### Plan A Health Insurance

###### Employees hired before October 27, 2011:

Those regularly scheduled to work thirty (30) or more hours per week, the Board shall pay an amount equal to the legislatively capped amount of the monthly premium of MESSA ABC Plan 1 premium and monthly HSA contribution for the coverage selected (Member only; Member & Spouse or Member & Child; Full Family) and the employee will pay the balance of the cost. Prescription drug coverage shall be under MESSA's ABC-Rx plan.

Those regularly scheduled to work less than thirty (30) hours per week but at least seventeen (17) hours per week, the cost to the Board shall be limited to no more than the legislatively capped amount of monthly premium of MESSA ABC Plan 1 premium and monthly HSA contributions for member only coverage as defined above.

###### Employees hired on or after October 27, 2011:

Those regularly scheduled to work more than seventeen (17) hours per week, the cost to the Board shall be limited to no more than the legislatively capped amount of monthly premium of MESSA ABC Plan 1 premium and monthly HSA contributions for member only coverage as defined above.

Current capped amounts as defined by 2011 PA 152:

- Self Only      \$ 5,992.30 (\$499.36 per month)
- Two Person    \$12,531.75 (\$1,044.31 per month)
- Full Family    \$16,342.66 (\$1,361.89 per month)

HSA funding for Mid-year benefit additions and changes will be prorated based on the number of months remaining in the calendar year.

No premium subsidy shall be available to employees regularly scheduled to work seventeen (17) hours or fewer per week.

The employees' contributions for health insurance during the school year shall be through payroll deduction. The annual open enrollment period shall be the month of November. Change in family status will be allowed according to the regulations of MESSA.

### Plan B

Eligible employees not electing health insurance coverage will receive the following amount in lieu of such coverage:

- Employees working seventeen (17) or more hours per week.....\$975.00
- Employees working at least 12 hours but less than seventeen (17) hours per week.....\$488.00

This amount will be paid to the employee in two equal payments as follows:

- 1) The first payroll in January
- 2) The first payroll in June

### Life Insurance

The Board shall provide without cost to the employee (provided the employee is insurable, as defined by MESSA) MESSA Term Life Insurance in the amount of \$15,000 plus AD & D that will be paid to the employees' designated beneficiary.

### Payroll Deduction/Salary Reduction Plan

The Board shall allow employees at their own expense to participate in MESSA insurance programs (offered by the District) not paid for by the Board (in whole or in part) provided MESSA allows such participation. The Board shall provide a Section 125 Plan to allow employees to purchase insurance benefits and pay contributions for health insurance with pre-tax dollars.

### General Provisions Relating To Insurance Coverage

It shall be the responsibility of the employee to meet the insurability requirements of the insurance carrier and to properly fill out all necessary forms that the insurance carrier may require. Failure of an employee to fill out the necessary insurance forms, required by the carrier or to meet the carrier's insurability standards shall not be the responsibility of the employer.

All insurance benefits for which the Board is obligated to contribute shall be subject to the underwriting rules, regulations and limitations as set forth by the respective insurance carrier.

The Board, by payment of the premiums set forth herein, shall be relieved from all liability with respect to the benefits provided by the insurance carriers or their underwriters. The failure of the insurance carriers or their underwriters to provide any of the benefits for which they have contracted shall not result in any liability to the Board, nor shall such failure be considered a breach of any obligation by the Board.

Disputes between employee(s) or beneficiaries of employee(s) and the insurance carriers or their underwriters shall not be subject to the grievance procedure established in this Agreement.

New employees to the bargaining unit shall be eligible for the above insurance beginning with the month after the month in which they begin work. In the event an employee is indefinitely laid off, the above insurance shall be continued through the month following the month in which their lay off was effective.

- B. Employees required to travel between buildings as a part of their duties shall be reimbursed mileage at the maximum rate allowed by the IRS.

## **ARTICLE 11**

### **SALARY SCHEDULE**

#### A. **STEP ADJUSTMENTS**

Effective upon each employee's employment anniversary date, said employee shall be placed on the next greater salary schedule step except all time on layoff and each unpaid leave of absence in excess of fourteen (14) calendar days shall result in an equal delay in an employee's movement to the next greater salary schedule step.

There shall be no step adjustments for the 2014-2015 fiscal year. This is a permanent freeze and progression to the very next step will only continue when the freeze is lifted.

#### B. **PLACEMENT**

The Board, at its discretion, shall place each person hired or transferred into this bargaining unit at the Step it determines appropriate.

C. OPTIONAL 26 PAY

Employees shall have the option of receiving their scheduled annual pay on a 26 pay period basis rather than payment for all compensation due each two weeks. Employees opting for the 26-payment option must notify the District in writing prior to the first pay period in September.

D. 2015-2016 Salary Schedule: Effective July 1, 2015

<b>Step</b>	<b>Hourly Rate</b>
<b>1</b>	<b>\$ 10.18</b>
<b>2</b>	<b>\$11.00</b>
<b>3</b>	<b>\$11.39</b>
<b>4</b>	<b>\$11.80</b>
<b>5</b>	<b>\$12.23</b>

In the event the district's general fund revenue for the duration of this contract exceeds the expenditures, this article will be opened and a wage increase will be negotiated.

Once the 2015 Fall Count is confirmed, wages could be negotiated.

ARTICLE 12


DURATION AND TERMINATION

- A. This Agreement is effective July 1, 2015 and shall continue until midnight June 30, 2016, at which time it shall terminate whether or not any notice of termination has been served on either party by the other.
- B. IN WITNESS WHEREOF, the parties hereto have executed this agreement:

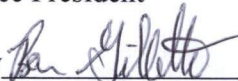
FRUITPORT COMMUNITY SCHOOLS  
BOARD OF EDUCATION

By 

President

By 

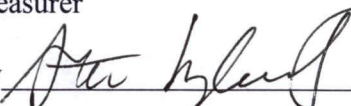
Vice President

By 

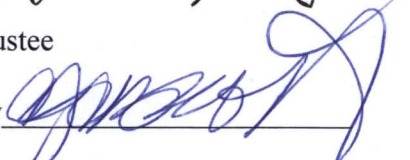
Secretary

By 

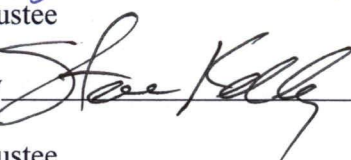
Treasurer

By 

Trustee

By 

Trustee

By 

Trustee

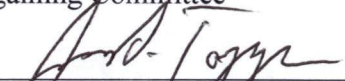
FRUITPORT INSTRUCTIONAL  
ASSISTANTS ASSOCIATION

By \_\_\_\_\_

Association President

By \_\_\_\_\_

Bargaining Committee

By 

Executive Director

**Summary Plan Description of the**  
**FRUITPORT COMMUNITY SCHOOLS**

**SECTION 125 PLAN**

**To Our Employees**

This document is called a "Summary Plan Description." It explains the provisions of the Fruitport Community Schools Section 125 Plan ("Plan"). The Plan allows you the option of waiving health coverage and, instead, receiving additional compensation or other tax-free benefits. In addition, the Plan allows you to use before-tax income to pay any required premiums under any group insurance plan which is available to you. As a result, you may be able to reduce your total income taxes.

You are urged to read this Summary Plan Description carefully and to keep a copy for future reference. This Summary Plan Description does not replace the provisions of the Plan document. The Plan document governs the operation of the Plan. We have tried to make this Summary Plan Description complete and accurate without making it overly technical. In the event of any difference between the Summary Plan Description and the Plan document, the terms of the Plan document will control.

If you have any questions about your benefits under the Plan, please contact the personnel department.

FRUITPORT COMMUNITY SCHOOLS

September 1995

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## WHAT IS A SECTION 125 PLAN?

A Section 125 Plan allows you to design a benefits package to suit the individual needs of you and your family.

Under the Plan, eligible employees may elect to waive the health coverage provided by the District. You will receive additional compensation if you waive health coverage.

In addition, the Plan enables employees, such as aides and part-time teachers, to pay their required premiums under the group insurance plan with "before-tax" income. If you are such an employee, your paychecks will be reduced by the amount needed to pay the premiums. At the end of the year, your W-2 statement of earnings (which you use to compute your federal and state income taxes) will be reduced by the same amount so you will not pay income taxes on the money you used to pay your premiums. In other words, your pay reduction contribution for group insurance coverage is made before income taxes are taken out of your paycheck rather than after income taxes are taken out of your paycheck. This will result in a net savings for you.

More information regarding the procedure for making your benefit election is explained in the following sections of this Summary Plan Description.

All records of the Plan and all your elections under the Plan are based on the "plan year," which is a 12-month accounting period of the Plan. The plan year is October 1 through September 30.

## PARTICIPATION

This section describes the requirements for participation in the Plan. You may participate in the Plan only if you meet these requirements.

### Eligibility to Participate.

Each employee who is eligible to receive a District contribution to a Section 403(b) tax-sheltered annuity in lieu of district-provided health insurance coverage, pursuant to the terms of the employee's collective bargaining agreement, employment contract or terms of employment (whichever applies), is eligible to participate in the Plan.

In addition, each employee who is eligible to participate in a group insurance plan upon paying the required premium (e.g., aides, part-time teachers, etc.) is eligible to participate in the Plan.

Each employee who was a participant on October 1, 1995 shall continue to participate. Each employee who was not a participant but who is an eligible employee on October 1, 1995 will become a participant on that date. Each other employee will become a



participant on the date the employee becomes eligible for District-provided insurance coverage.

### **Termination of Participation.**

If you terminate employment with the District, or otherwise become ineligible for health insurance coverage, you will not receive any additional compensation for waiving health insurance. You will also no longer be eligible to use before-tax income to purchase group insurance benefits.

Further, if you terminate employment with the District, or otherwise become ineligible for insurance coverage, your continued participation and coverage under the District's insurance plans will be determined under the terms and conditions of each of those separate plans.

## **BENEFIT CHOICES**

### **Waiving Health Coverage.**

The District maintains one or more group health plans which provide health coverage to eligible employees and their dependents. You may either elect to receive all or part of the coverage or to waive all or part of the coverage.

You may receive additional compensation if you elect to waive coverage under the District's group health plan(s). The District will determine the additional compensation for each plan year and communicate it to you during the annual enrollment period. (The amount of the additional compensation will vary depending on which coverage(s) you waive.) You will receive the additional compensation in your pay checks during the plan year. These amounts will be subject to all applicable tax withholdings.

Federal law does not permit Fruitport Community Schools to offer a Section 403(b) tax-sheltered annuity contribution as a benefit under the Section 125 Plan. However, if you receive additional compensation for waiving health coverage, you may make a special election, outside of the Plan, to contribute all or a portion of the additional compensation to a Section 403(b) tax-sheltered annuity. The contribution will be considered your own salary reduction contribution for purposes of the \$9,500 dollar limit. The contribution will be deducted from your compensation in equal installments on a before-tax basis (except for FICA and FUTA) as part of the Fruitport Community Schools' regular payroll system.

### **Pre-Tax Payment of Premiums.**

If you are an aide, part-time teacher, or other employee who is required to pay a premium for group insurance coverage, you have two choices with regard to the coverage. First, you may elect to receive the coverage(s) and pay your premiums by reducing your pay on a before-tax basis. Second, you may elect to waive the

coverage(s) for you and your family. If you make this election, your pay will not be increased or decreased.

You can make your benefit choices in the spaces provided in your election form (see the "Choosing Your Benefits" section below).

### **CHOOSING YOUR BENEFITS**

This section describes the procedure for choosing benefits under the Plan. You may make a separate election for each plan year (October 1 through September 30). However, you may not change your benefits during the plan year unless you have a change in family status.

#### **Initial Benefit Selection.**

You must complete an election form before the date you become a participant in the Plan. The election must be in writing on a form provided by the District. The election will remain in effect for the remainder of the year unless you have a change in family status, as described below.

If you do not make an election, the following rules apply:

- (a) If you were receiving contributions to a tax-sheltered annuity in lieu of health insurance as of September 30, 1995, you will receive additional compensation in lieu of health insurance coverage. This change will be effective as of October 1, 1995.
- (b) If you were receiving health insurance coverage as of September 30, 1995, you will continue to receive health insurance coverage.
- (c) If you are an aide, part-time teacher, or other employee who is required to pay a premium for group insurance coverage, your pay will not be reduced and you will automatically be considered to have waived coverage.

#### **Annual Benefit Selection.**

Once you become a participant, your original election form on file with the District will continue in effect for all subsequent plan years unless you complete a new election form and turn it in to the District during the annual enrollment period.

If you complete a new election form, the new election form will become effective as of the first day of the next plan year and will remain in effect through the last day of the plan year unless you have a change in family status, as described below. Further, your new election form will continue in effect for all subsequent plan years unless you

complete another new election form and turn it in to the District during a subsequent annual enrollment period.

### Change in Family Status.

A change in family status is the only exception to the rule prohibiting any change in your benefit election during a plan year. A change in family status is limited to situations where your family status has changed during the plan year and this change affects the benefit election you made earlier.

The following are examples of changes in family status:

- (a) You have married or divorced;
- (b) Your spouse or child has died;
- (c) You have a new child by birth or adoption;
- (d) Your spouse begins or terminates employment;
- (e) Your or your spouse's employment status is changed from full-time to part-time, or vice-versa;
- (f) You or your spouse take an unpaid leave of absence; or
- (g) You or your spouse have a significant change in your health coverage as a result of your spouse's employment.

If you have a change in family status during a plan year, you must submit a change in family status form to the District no later than 30 days after the change in family status. The change in family status form will be effective as soon as administratively feasible after the change is approved by the District.

Most importantly, your new election must be on account of and consistent with the change in family status. Further, any new election involving an independent third-party health insurer or HMO will only be approved to the extent permitted by the independent third-party health insurer or HMO.

If you do not submit the change in family status form to the District within 30 days after the change in family status, you will be required to wait until the next annual enrollment period to change your election.

### **YOUR PAY REDUCTIONS**

If you are an aide, part-time teacher, or other employee who has elected to purchase group insurance coverage with before-tax income, each payroll period your pay will be reduced by the amount stated in your election form for your premium. If the amount of your

Premium changes, your pay reduction will automatically change accordingly.

If the amount designated in your election form is not enough to cover your premium payments, you will be required to pay the balance. This might happen if your employment

is temporarily interrupted since your pay will not be reduced to pay your premium during the interruption.

Your pay reductions are not taxable for purposes of either income taxes or FICA. Because you do not pay taxes on your pay reductions, it reduces the net cost for the premiums.

The reduction of your pay for purposes of FICA could potentially cause a small reduction in your future social security benefits. You should consult with your tax advisor for more information regarding this issue.

### **CLAIMS**

Benefits under the other insurance plans will be paid according to each plan's claims procedure. If your claim for benefits under one of these plans is denied, in whole or in Part, you may appeal according to that plan's appeal procedure.

### **ADMINISTRATION**

The District is the plan administrator. The plan administrator is charged with the administration of the Plan. The plan administrator has the discretionary authority to decide all questions of eligibility for participation and eligibility for benefit payments and to determine the amount and manner of payment of benefits. The plan administrator will exercise its discretionary authority in a uniform and consistent manner, based upon the objective criteria set forth in the Plan. Further the plan administrator has the discretionary authority to construe and interpret the terms of the Plan.

### **FUTURE OF THE PLAN**

The District reserves the right to terminate or amend the Plan at any time.

**FRUITPORT COMMUNITY SCHOOLS**  
**SECTION 125 PLAN**

**ARTICLE I**  
**ESTABLISHMENT OF THE PLAN**

Fruitport Community Schools established the Fruitport Community Schools Pre-Tax Premium Plan as of October 1, 1993, for the purpose of providing eligible Employees with a choice between cash and certain tax-free benefits. By this document, Employer is amending and restating the Plan as of October 1, 19095. The name of the amended and restated Plan shall be the Fruitport Community Schools Section 125 Plan. The Plan, as amended and restated, is intended to qualify as a cafeteria plan under Section 125 of the Code and is to be interpreted in a manner consistent with the requirements of Section 125.

**ARTICLE II**  
**DEFINITIONS**

The following terms used in the Plan and other documents relating to the Plan shall have the meanings described in this Article unless the context clearly indicates another meaning. All references in the Plan to specific Articles or Sections shall refer to Articles or Sections of the Plan unless otherwise stated.

**2.1 Aide.**

“Aide” means an Employee of Employer who works full-time or regular part-time as an Instructional, Special Education or a Chapter I aide. Noon moms, supervisors and all other Employees are not Aides.

**2.2 Association.**

“Association” means the Fruitport Instruction Assistants Association, MEA-NEA.

**2.3 Code.**

“Code” means the Internal Revenue Code of 1986, as amended.

**2.4 Collective Bargaining Agreement.**

“Collective Bargaining Agreement” means the current collective bargaining agreement between Employer and the Association, which provides for the Plan to be maintained for the benefit of the eligible Aides covered by the agreement. Collective Bargaining Agreement also means any renewal, modification, amendment or successor agreement to the current agreement.

**2.5 Compensation.**

“Compensation” means salary, hourly wages and overtime pay paid to a Participant by Employer during a Plan Year for personal services provided by the Participant.

**2.6 Compensation Reductions.**

“Compensation Reductions” means the amount by which a Participant reduces his compensation to purchase benefits under the Plan (i.e., pre-tax contributions to the Plan). Compensation Reductions shall be deducted in equal amounts from a Participant’s paychecks either over the entire Plan Year or over a nine-month period during the Plan Year. The nine-month period shall correspond with Employer’s school year.

**2.7 Election Form.**

“Election Form” means the agreement entered into between Employer and a Participant, as provided in Section 4.3. The Election Form shall be a written document provided by the Plan Administrator.

**2.8 Employee.**

“Employee” means any common-law employee of Employer. An independent contractor or a self-employed individual is not an Employee.

**2.9 Employer.**

“Employer” means Fruitport Community Schools.

**2.10 Health Benefits Plan.**

“Health Benefits Plan” means any group health benefits plan or welfare benefits plan that Employer periodically makes available to Employees and their dependents, provided that the plan provides a qualified benefit pursuant to Section 125(f) of the Code.

**2.11 Participant.**

“Participant” means an Employee who has satisfied the participation requirements under Article III.

**2.12 Plan.**

“Plan” means the Fruitport Community Schools Section 125 Plan.

**2.13 Plan Administrator.**

“Plan Administrator” means the named fiduciary responsible for the operation and administration of the Plan. Employer shall be the Plan Administrator.

**2.14 Plan Year.**

“Plan Year” means the 12-consecutive-month period beginning on October 1 and ending on the following September 30.

## **ARTICLE III PARTICIPATION**

### **3.1 Eligibility.**

Each Aide who is covered by the Collective Bargaining Agreement and who is eligible to participate in the Health Benefits Plan under the terms of the Collective Bargaining Agreement shall be eligible to participate in the Plan. Each other Employee who is eligible to participate in a Health Benefits Plan by paying all or part of the cost of coverage shall also be eligible to participate in the Plan.

In addition, each Employee who is eligible to receive an Employer contribution to a Section 403(b) tax-sheltered annuity in lieu of Employer-provided group health, dental and/or vision coverage pursuant to the terms of the Employee's collective bargaining agreement, employment contract or terms of employment (whichever applies), shall be eligible to participate in the Plan.

An eligible Employee shall become a Participant on the date specified in Section 3.2.

### **3.2 Participation.**

Each Employee who was a Participant as of October 1, 1995 shall continue to participate. Each Employee who was not a Participant but who is eligible under Section 3.1 on October 1, 1995, shall become a Participant on that date. Each other Employee who subsequently becomes eligible under Section 3.1 shall become a Participant on the date the Employee becomes eligible to participate in a Health Benefits Plan.

### **3.3 Termination of Participation.**

The following rules shall apply to a Participant who terminates employment with Employer or otherwise becomes ineligible to participate in a Health Benefits Plan:

- (a) The Participant shall be ineligible to have additional Compensation Reductions used to purchase coverage under the Health Benefits Plan. The Participant's continued participation and coverage under the Health Benefits Plan shall be determined under the terms and conditions of each plan.
- (b) The Participant shall be ineligible to receive any additional Compensation attributable to an election to waive coverage under the Health Benefits Plan.

## **ARTICLE IV BENEFITS**

### **4.1 This Article Generally.**

This Article describes the benefit choices which are available to a Participant under the Plan and the procedures for the Participant to make his elections.

#### **4.2 Benefit Choices.**

A Participant may elect to receive or to waive coverage under a Health Benefits Plan for himself or his eligible dependents, subject to the following:

- (a) The Participant may be required to pay all or part of the cost of coverage in the Health Benefits Plan. If a Participant is required to pay all or part of the cost of coverage, the Participant shall pay such cost with his Compensation Reductions.
- (b) A Participant who waives coverage in the Health Benefits Plan may have his Compensation increased by an amount determined by Employer for each Plan Year. The amount of any additional Compensation may vary depending on the type of coverage waived by the Participant. The additional Compensation shall be paid in equal installments during the Plan Year to which the election relates. However, as provided in Section 3.3(b), a Participant shall not receive any payment on account of this election for any time period after he terminates employment with Employer or otherwise becomes ineligible for participation in a Health Benefits Plan.

#### **4.3 Election of Benefits.**

- (a) Initial Election. Each Employee shall complete and return an Election Form to Employer before the date he becomes a Participant. If an Employee does not deliver a completed Election Form to Employer before the date the Employee becomes a Participant, the Employee shall generally be deemed to have elected to receive Employer-provided group health coverage for the Plan Year. However, there are two exceptions to this general rule. First, if the Employee is an Aide or other Employee who is required to pay all or part of the cost of coverage, he shall be deemed to have waived all coverage under the Health Benefits Plan and elected to receive his full Compensation for the Plan Year through Employer's regular payroll system. Second, if as of September 30, 1995 a Participant is receiving contributions to a tax-sheltered annuity in lieu of health, dental and/or vision coverage, the Participant shall receive additional Compensation in lieu of health, dental and/or vision coverage if the Participant fails to complete an Election Form and return it to Employer.
- (b) Subsequent Election. Each Participant who has previously completed an Election Form Shall have the election made in that Election Form continue for all subsequent Plan Years unless:
  - (i) The Participant completed a new Election Form and delivers it to Employer during the annual enrollment period determined by Employer; or



- (ii) The Participant's election is changed as provided in Section 4.4.

A Participant who is required to pay all or part of the cost of coverage in the Health Benefits Plan shall be considered to have agreed to a Compensation Reduction for the subsequent Plan Year equal to the Participant's share of the cost of coverage for that Plan Year.

#### **4.4 Changes in Election During the Plan Year.**

A Participant's election of benefits, including the amount of any Compensation Reductions, shall not be changed during a Plan Year, except as follows:

- (a) The Compensation Reductions shall be automatically changed, on a reasonable and consistent basis, to reflect any increase or decrease in the premium charged by an HMO or an independent third-party provider for health coverage.
- (b) A Participant's election may be changed on account of, and consistent with, a "change in family status," as provided in Section 4.5.
- (c) A Participant's election may be changed to satisfy any nondiscrimination rule in the Code, as described in Section 4.6.
- (d) A Participant's election may be changed if coverage under a Health Benefits Plan provided by an independent, third-party provider is significantly curtailed or ceases. The Participant may elect to receive prospective coverage under another Health Benefits Plan which provides similar coverage.

#### **4.5 Change in Family Status.**

A Participant may change his election during a Plan Year if the change is on account of, and consistent with, a change in family status.

For purposes of this Section, a "change in family status" means the marriage or divorce of a Participant, the death of a Participant's spouse or dependent, birth or adoption of a child, termination or commencement of employment by a Participant's spouse, an unpaid leave of absence by a Participant or his spouse, a significant change in the health coverage of a Participant or his spouse as a result of his spouse's employment, and any other events that the Plan Administrator determines shall permit a change of an election during a Plan Year under regulations and rulings of the Internal Revenue Service.

A Participant who changes his benefit election on account of, and consistent with, a change in family status must submit a new Election Form to the Plan Administrator no later than 30 days after the change in family status occurs. Any new election under this Section shall be effective at the time prescribed by the Plan Administrator. Further,

any new election involving an HMO or independent third-party provider shall only be approved to the extent permitted by the HMO or independent third-party provider.

If a Participant waives health coverage under Section 4.2(b) for only part of the Plan Year as a result of a change in family status, rules comparable to those in Section 3.3(b) shall apply in determining the amount of the additional Compensation payable to the Participant.

#### **4.6 Nondiscrimination Rules.**

If the Plan Administration determines at any time that the Plan may not satisfy the nondiscrimination rules in the Code, the Plan Administrator may take whatever action it considers appropriate to assure compliance with the rule. Any action shall be taken uniformly with respect to similarly situated Participants. The action may include the modification of Participants' Compensation Reduction elections, with or without the consent of the Participants.

#### **4.7 Maximum Compensation Reductions.**

Subject to Section 4.6, a Participant's maximum Compensation Reductions in a Plan Year shall be the Participant's Compensation Reductions to pay premiums under the Health Benefits Plan.

#### **4.8 Funding of Health Benefits.**

Employer shall pay all premiums under the Health Benefits Plan from its general assets. Nothing in the Plan shall be construed to require Employer or the Plan Administrator to maintain any fund or segregate any amount for the benefit of any Participant.

## **ARTICLE V ADMINISTRATION**

#### **5.4 Powers of Plan Administrator.**

The Plan Administrator shall have the discretionary powers necessary to administer and meet its obligations under the Plan, including, without limitation, the following:

- (a) Interpret the terms and provisions of the Plan.
- (b) Decide all questions of eligibility for participation in the Plan.
- (c) Decide all questions of eligibility for benefit payments and determine the amount and manner of the payment of benefits.
- (d) Make and enforce rules and regulations it deems necessary for the efficient administration of the Plan.

- (e) Pay premiums for all Participants entitled to payment under the Plan and pay expenses incident to the administration of the Plan.
- (f) Administer the appeal procedure provided in this Article.
- (g) Delegate specific responsibilities for the operations and administration of the Plan to any Employees or agents.
- (h) Maintain records and accounts pertaining to the Plan.

#### **5.5 Claims for Benefits.**

Benefits under the Health Benefits Plan shall be paid in accordance with procedures for the submission of claims for benefits established under that plan.

#### **5.3 Standard of Care.**

The Plan Administrator shall administer the Plan in accordance with the terms of the Plan solely in the interest of the Participants and for the exclusive purposes of providing benefits to Participants and defraying the reasonable expenses of administration of the Plan. The Plan Administrator shall administer the Plan with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims.

The Plan Administrator shall not be liable for any act or omission relating to its duties under the Plan, unless the act or omission violates the standard of care described in this Section. The Plan Administrator shall not be liable for any act or omission by another relating to the Plan.

#### **5.4 Appeal Procedure**

Any Participant whose claim for benefits under the Plan is not paid or denied, in whole or in part, shall be given notice in writing of the nonpayment or denial by the Plan Administrator. The Plan Administrator shall provide the notice of the nonpayment within 90 days after the payment is due and shall provide the notice of the denial within 90 days after the claim is received by the Plan, unless special circumstances require an extension of time for processing the claim. If an extension of time is required, the Plan Administrator shall provide the Participant written notice of the extension before the expiration of the initial 90-day period. However, in no event shall the extension exceed a period of 90 days from the end of the initial period.

The notice of the nonpayment or denial shall be in easily understood language and shall indicate the reasons for the nonpayment or denial and the specific provisions of the Plan on which the nonpayment or denial is based. The notice shall explain that the Participant may request a review of the nonpayment or denial and the procedure for requesting review. The notice shall describe any additional information necessary to perfect the Participant's claim and explain why the information is necessary.

A Participant may make a written request to the Plan Administrator for a review of any nonpayment or denial under the Plan. The request must be in writing and must be made within 90 days after the mailing date of the notice of nonpayment or denial. The request shall refer to the provisions of the Plan on which it is based and shall set forth the facts relied upon as justifying a reversal or modification of the determination being appealed.

A Participant who requests a review of a nonpayment or denial in accordance with this appeal procedure may examine pertinent documents and submit pertinent issues and comments in writing. A Participant may have a representative act on his behalf in exercising his right to request a review and the rights granted by this appeal procedure. The Plan Administrator shall provide a review of the decision within 60 days after receiving the written request for review.

Any Participant whose application for benefits under the Health Benefits Plan has been denied, in whole or in part, shall have a right to obtain a review of the decision as provided in that plan.

## **ARTICLE VI** **RIGHTS OF PARTICIPANTS**

### **6.1 Employment Rights.**

The existence of the Plan shall not grant a Participant any legal right to continue as an Employee, or affect the right of Employer to discharge a Participant.

### **6.2 Participants' Rights.**

The Plan shall be maintained for the exclusive benefit of the Participants and their dependents. However, the existence of the Plan, shall not give any Participant or dependent any equity or other interest in the assets, business or affairs of Employer. Similarly, the existence of the Plan does not give any Participant or dependent the right to challenge any action taken by Employer, or any policy adopted or followed by Employer or the right to examine any of the books and records of Employer.

### **6.3 Spendthrift Provision.**

No interest under the Plan is subject to assignment or alienation, whether voluntary or involuntary. Any attempt to assign or alienate any interest shall be void. No interest shall be liable for or subject to the debts or liabilities of any Participant.

## **ARTICLE VII** **PLAN AMENDMENT AND TERMINATION**

### **7.1 Amendment of Plan.**

Employer may amend the Plan at any time, by action of its Board of Education or by the written approval of an officer or committee to whom Employer's Board of

Education has delegated the authority to amend the Plan. Any amendment shall be subject to the following:

- (a) No amendment shall be effective unless the Plan, as amended, shall be for the exclusive benefit of Participants.
- (b) No amendment shall reduce or eliminate a Participant's right to have his premium under the Health Benefits Plan paid in accordance with the provisions of the Plan to the extent a Participant has used Compensation Reductions to pay the premiums.
- (c) No amendment shall be inconsistent with any applicable collective bargaining agreement.

Any amendment may be made retroactively effective to the extent permitted by the Code.

#### **7.2 Termination of Plan.**

Employer reserves the right to terminate or partially terminate the Plan at any time, by action of its Board of Education. If the Plan is terminated or partially terminated for any reason, the amount of a Participant's prior Compensation Reductions shall continue to be applied for the exclusive benefit of the Participant and his dependents.

### **ARTICLE VIII MISCELLANEOUS PROVISIONS**

#### **8.1 Uniformity of Treatment.**

Any action taken under the Plan by the Plan Administrator or Employer shall be uniform in its application to similarly situated persons. No action shall be taken which shall discriminate in favor of highly compensated Employees, as defined in Section 414(q) of the Code.

#### **8.2 Effect Upon Other Compensation-Related Plans.**

Participation in the Plan is not intended to affect any other Compensation-related employee benefit plan maintained or sponsored by Employer. Any contributions or benefits under any other Compensation-related employee benefit plan with respect to a Participant shall, to the extent permitted by law and not otherwise provided for in the other plan, include any amounts by which the Participant's Compensation is reduced pursuant to the provisions of the Plan.

#### **8.3 Construction.**

Words used in the masculine shall apply to the feminine where applicable. Wherever the context of the Plan dictates, the plural shall be read as the singular and the singular as the plural.

**8.4 Governing Law.**

The provisions of the Plan shall be governed by the laws of the State of Michigan.  
IN WITNESS OF WHICH, Employer has adopted the amended and restated Plan this  
\_\_\_\_\_ date of \_\_\_\_\_, 199\_\_\_\_.

FRUITPORT COMMUNITY SCHOOLS

By \_\_\_\_\_

Its \_\_\_\_\_

**FRUITPORT COMMUNITY SCHOOLS  
SECTION 125 PLAN  
(Effective as of October 1, 1995)**

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