

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-016-08

(UNFAIR LABOR PRACTICE)

THREE RIVERS EDUCATION)	
ASSOCIATION, SOBC/OEA/NEA,)	
)	
Complainant,)	
)	FINDINGS AND ORDER ON
v.)	COMPLAINANT’S PETITION FOR
)	REPRESENTATION COSTS
THREE RIVERS SCHOOL DISTRICT,)	
)	
Respondent.)	
_____)	

On April 29, 2008, the Three Rivers Education Association, SOBC/OEA/NEA (Association) filed an unfair labor practice complaint against the Three Rivers School District (District), alleging that the District violated ORS 243.672(1)(e). The Board initially dismissed the complaint. 23 PECBR 638 (2010). The Association then filed a petition for review with the Court of Appeals, and on January 16, 2013, the Court of Appeals reversed the Board’s order and remanded the matter to us. *Three Rivers Ed. Assn. v. Three Rivers Sch. Dist.*, 254 Or App 570, 294 P3d 547 (2013). On August 8, 2013, this Board issued an Order on Remand, holding that the District violated ORS 243.672(1)(e), as alleged by the Association.¹ On August 29, 2013, the Association filed its petition for representation costs on remand.² The District did not object to the petition.

Pursuant to ORS 243.676(2)(d) and OAR 115-035-0055, this Board finds that:

1. The Association filed a timely petition for representation costs on remand, and the District did not object to the petition.

¹The Association submitted a separate petition for attorney fees on appeal, pursuant to ORS 243.676(2)(e) and OAR 115-035-0057. That petition is addressed in a separate order issued on this date.

²The Association only seeks representation costs for services rendered on remand before this Board. Therefore, our award is limited to those costs.

2. The Association is the prevailing party.

3. Counsel for the Association submitted affidavits showing that 21.6 hours were spent on remand, at a rate of \$150 per hour, for a total of \$3,090 in representation costs on remand.³

4. The requested hourly rate is below average. The average rate for attorney fees is between \$165 and \$170 per hour. *See Federation of Oregon Parole and Probation Officers, Multnomah County Chapter v. Multnomah County*, Case No. UP-032-12, 25 PECBR 808, 809 (2013) (Rep. Cost Order). The District has not objected to the number of hours spent by Association counsel on remand, and we conclude that the number of hours is reasonable.

5. An average award is generally one-third of the reasonable representation costs of the prevailing party, subject to the \$3,500 cap contained in OAR 115-035-0055(1)(a). Having considered the purposes and policies of the Public Employee Collective Bargaining Act, our awards in prior cases, and the reasonable cost of services rendered, this Board awards the Association attorney fees in the amount of \$1,030.

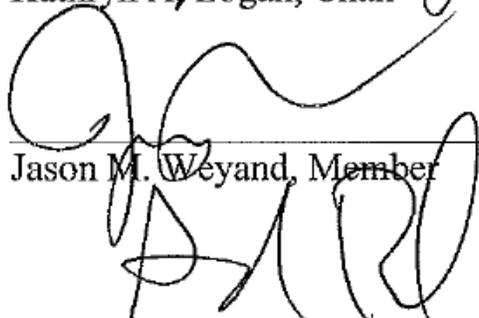
ORDER

The District will remit \$1,030 to the Association within 30 days of the date of this Order.

DATED this 28 day of February 2014.



Kathryn A. Logan, Chair



Jason M. Weyand, Member



Adam L. Rhynard, Member

This Order may be appealed pursuant to ORS 183.482.

³The petition recites both “\$3,090” and “\$3,909” in representation costs; we conclude that the latter is a typographical error because the former accurately reflects the number of hours spent on remand, multiplied by the hourly rate.