

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-025-12

(UNFAIR LABOR PRACTICE)

EAGLE POINT EDUCATION	)	
ASSOCIATION/OEA/NEA,	)	
	)	
Complainant,	)	
	)	FINDINGS AND ORDER
v.	)	ON COMPLAINANT’S PETITION
	)	FOR REPRESENTATION COSTS
JACKSON COUNTY SCHOOL	)	
DISTRICT #9,	)	
	)	
Respondent.	)	
_____	)	

On April 26, 2012, the Eagle Point Education Association/OEA/NEA (Association) filed an unfair labor practice complaint alleging that the Jackson County School District #9 (District) violated ORS 243.672(1)(a) by polling bargaining unit members about their intention to participate in a potential strike. On May 7, 2012, the Association amended the complaint to add other allegations. Subsequently, the Association withdrew all but one allegation claiming a violation of ORS 243.672(1)(a) regarding the payment of teachers during a strike. The matter was submitted to an Administrative Law Judge (ALJ) on a joint stipulation of facts and exhibits. No hearing was held.

On March 26, 2014, after no objections to the recommended order were received, this Board issued an Order adopting the recommended order as the final order. The Association filed a petition for representation costs on April 16, 2014. The District filed timely objections to the petition on May 6, 2014.

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

1. The Association’s petition and the District’s objections are timely filed.
2. The Association is the prevailing party.
3. Counsel for the Association submitted an affidavit and exhibit reflecting that 28.1 hours of legal work was performed at the rate of \$150 per hour, and .6 hours of legal work was performed at the rate of \$140 per hour. The Association’s petition requests payment in the amount of \$4,299. The maximum amount this Board awards in the absence of a civil penalty is \$3,500.

*American Federation of State, County and Municipal Employees Council 75, Local 88 v. Multnomah County*, Case No. UP-22-10, 25 PECBR 150, 151 (2012) (Rep. Cost Order); OAR 115-035-0055.

4. The requested hourly rate is lower than average. The average rate for representation costs is between \$165 and \$170 per hour. *Clackamas County Employees' Association v. Clackamas County/Clackamas County District Attorney*, Case No. UP-7-08, 24 PECBR 769, 771 (2012) (Rep. Cost Order). The number of hours claimed is above average for a case submitted on a joint stipulation with no hearing. Such cases generally require between 16 and 25 hours of time. *See Teamsters Local 670 v. City of Ontario*, Case No. UP-40-08, 23 PECBR 384, 385 (2009) (Rep. Cost Order). We will adjust our award accordingly.

5. The District objects to the number of hours claimed by the Association, stating that the matter consisted of a joint stipulated fact statement written by the District's representative, no hearing was held, no objections were made to the recommended order, and the legal and factual issues were not unusually complex. Further, the District asserts that it only spent 11 hours preparing the stipulation, verifying facts and exhibits with the District, and "attempting to make contact with the Union's Representative." The District did not submit an affidavit.

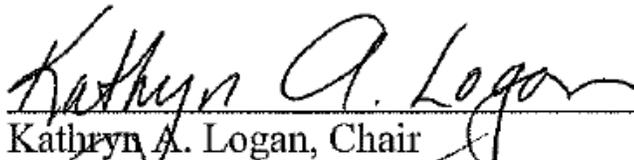
6. An average award is generally one-third of the reasonable representation costs of the prevailing party, subject to the \$3,500 cap contained in OAR-115-035-0055(1)(a). We generally adjust the award upward when an employer violates subsection (1)(a) because such conduct "strikes at core Public Employee Collective Bargaining Act (PECBA) rights." *American Federation of State, County and Municipal Employees Council 75, Local 88*, 25 PECBR at 151. We make such an adjustment here.

7. Having considered the purposes and policies of the PECBA, our awards in prior cases, and the reasonable cost of services rendered, this Board awards representation costs to the Association in the amount of \$1,100.

ORDER

The District will remit \$1,100 to the Association within 30 days of the date of this Order.

DATED this 24 day of June 2014.

  
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Kathryn A. Logan, Chair

  
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Jason M. Weyand, Member

  
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Adam L. Rhynard, Member

This Order may be appealed pursuant to ORS 183.482.