

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-7-02

HILLSBORO EDUCATION	)	
ASSOCIATION,	)	
	)	
Complainant,	)	FINDINGS AND ORDER ON
	)	COMPLAINANT'S PETITION FOR
v.	)	ATTORNEY FEES ON APPEAL
	)	
HILLSBORO SCHOOL DISTRICT,	)	
	)	
Respondent.	)	
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This Board issued an Order on December 19, 2002. 20 PECBR 124 (2002). Respondent filed a petition for judicial review. The Court of Appeals affirmed the Order without opinion on March 31, 2004. An appellate judgment was issued on June 2, 2004. Complainant filed a petition for attorney fees on appeal on June 23, 2004. Pursuant to OAR 115-35-057, we make the following findings:

1. The appellate judgment names Complainant as the prevailing party.
2. The petition was timely. Respondent filed no objections.
3. Complainant requests a fee award of \$3,500, the maximum allowed under our rules in most cases. The request is based on 33.6 hours of legal services valued at \$130 per hour, 10.4 hours of service valued at \$135 per hour, plus two hours of travel time valued at \$65 per hour, for a total of \$5,902 billed on appeal.
4. This case involved a motion to stay this Board's Order. The number of hours claimed exceeds the average in similar cases, a factor we consider in making cost awards. The hourly rates are reasonable.
5. The issue in this case was whether Respondent violated ORS 243.672(1)(e) by deciding to change the number of classes assigned to teachers and

teaching load premium pay for the 2002-2003 school year, and by taking significant steps toward implementing those decisions. This Board unanimously found a violation. The Court of Appeals affirmed the Order without opinion.

In ruling on the petition for representation costs in this case, we noted that we typically make an average award in unilateral change cases. We also found that this case did not involve matters of first impression, and that no other factors argued strongly for either an enhanced or reduced award. We find nothing in either our Order or the decision of the court that supports either a greater or lesser than average award.

Having considered the policies and purposes of the Public Employee Collective Bargaining Act, the appropriate charges for the services rendered, and our awards in similar cases, this Board awards Complainant attorney fees in the amount of \$1,800.

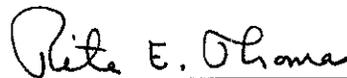
ORDER

Respondent is ordered to remit \$1,800 to Complainant within 30 days of the date of this Order.

DATED this 15<sup>th</sup> day of July 2004.

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Paul B. Gamson, Chair

  
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Rita E. Thomas, Board Member

  
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Luella E. Nelson, Board Member

This Order may be appealed pursuant to ORS 183.482.

\*Chair Gamson has recused himself from this case.