

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-27-08

(UNFAIR LABOR PRACTICE)

CHEMEKETA COMMUNITY COLLEGE	)	
CLASSIFIED EMPLOYEES	)	
ASSOCIATION,	)	
	)	
Complainant,	)	FINDINGS AND ORDER
v.	)	ON COMPLAINANT'S
	)	PETITION FOR
CHEMEKETA COMMUNITY COLLEGE,	)	REPRESENTATION COSTS
	)	
Respondent.	)	
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This Board issued an Order on March 10, 2010. We concluded that Chemeketa Community College (College) violated ORS 243.672(1)(a) when it threatened to reduce employee salaries if they pursued and won a grievance. 23 PECBR 612. On March 31, 2010, the Chemeketa Community College Classified Employees Association (Association) petitioned for representation costs. The College did not object or otherwise respond to the petition. *See* OAR 115-035-0055(3) (an opposing party has 21 days to object to a petition for representation costs).

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

1. The Association filed a timely petition for representation costs. The College did not object to the petition.
2. The Association is the prevailing party.
3. The Association incurred \$3960 in representation costs in pursuing this complaint. According to the affidavit of counsel, this consists of 24 hours of attorney time valued at \$165 per hour.

The hearing took one day. The number of hours spent here is well below the average in similar cases. *See Blue Mountain Faculty Association v. Blue Mountain Community College*, Case No. UP-22-05, 21 PECBR 853 (2007) (Rep. Cost Order) (cases typically take an average of 45-50 hours for each day of hearing). The hourly rate is reasonable. *See Dallas Police Employees Association v. City of Dallas*, Case No. UP-33-08, 23 PECBR 510 (2010) (Rep. Cost Order) (the average rate for representation costs is \$165-170 per hour). We will consider these factors in determining the Association's reasonable representation costs.

4. This case involved employer threats that interfered with the exercise of protected union activity. The Association filed a grievance on behalf of American Sign Language (ASL) interpreters which alleged that their bilingual skills entitled them to additional pay under the contract. The College executive dean told the Association president that the College would reduce the ASL interpreters' base salaries if they pursued and won the grievance. We concluded that filing and pursuing a grievance is a protected right under the Public Employee Collective Bargaining Act (PECBA), and that threatening to reduce employee salaries if they exercised that right violates ORS 243.672(1)(a).

An average award is approximately one-third of the prevailing party's reasonable representation costs, up to the \$3,500 limit. OAR 115-035-0055(1)(a); *Benton County Deputy Sheriff's Association v. Benton County*, Case No. UP-24-06, 22 PECBR 46, 47 (2007) (Rep. Cost Order). We adjust that percentage up or down for policy reasons described in our rules and cases. We generally adjust the award upward when an employer violates subsection (1)(a) because the employer's conduct strikes at core PECBA rights. *SEIU International Union Local 503, OPEU v. State of Oregon, Judicial Department*, Case No. UP-3-04, 21 PECBR 810 (2005). We conclude that the Association is entitled to larger-than-average award.

After considering the purposes and policies of the PECBA, our awards in prior cases, and the reasonable cost of services rendered, this Board awards the Association representation costs in the amount of \$1,600.

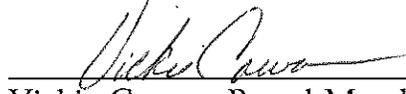
ORDER

The College will remit \$1,600 to the Association within 30 days of the date of this Order.

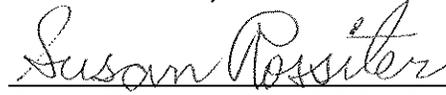
DATED this 20<sup>th</sup> day of July 2010.



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Paul B. Gamson, Chair



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Vickie Cowan, Board Member



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Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.