

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No UP-53-00

LINCOLN COUNTY EDUCATION )  
ASSOCIATION, )  
 )  
Complainant, )  
 )  
v. )  
 )  
LINCOLN COUNTY SCHOOL DISTRICT, )  
 )  
Respondent. )  
\_\_\_\_\_ )

FINDINGS AND ORDER  
ON COMPLAINANT'S PETITION  
FOR REPRESENTATION COSTS

This Board issued an Order in this case on February 22, 2002. Complainant filed a petition for representation costs on March 5, 2002, to which Respondent filed objections on March 25, 2002. We issued a Supplemental Order on May 25, 2002. Complainant filed a petition for representation costs concerning that Order on May 17, 2002.<sup>1</sup> Respondent filed objections on June 5, 2002. Respondent also filed a petition for judicial review. On March 20, 2003, the Court of Appeals issued a decision affirming our Order. An appellate judgment was issued on May 14, 2003. Pursuant to Board Rule 115-35-055, this Board makes the following findings:

1. Complainant is the prevailing party
2. Complainant's petition for representation costs and Respondent's objections were both timely.
3. The petition requests an award of \$3,500, the maximum allowed under our rule in most circumstances. The request is based on 118.2 hours of legal services billed variously at \$125, \$100, and \$65 an hour. According to Complainant, the total amount billed for services in this matter was \$11,300.50. The amendment to the petition requests an additional \$2,650 in costs, based on an additional 21.2 hours of services at \$125 an hour.

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<sup>1</sup>We consider this second representation cost petition to be an amendment to the first petition. The additional proceedings in this matter were not a separate legal action, but merely the steps necessary to conclude the case.

4. This case required a day of hearing in Newport, Oregon, and a part of a hearing day by telephone conference call. No additional hearing hours were required for the Supplemental Order. The number of hours claimed far exceeds the number in cases of similar complexity. The hourly rates claimed are reasonable.

5. Complainant charged Respondent with unilaterally changing the amount of student contact time for certain bargaining unit members, in violation of ORS 243.672(1)(e). We found that Respondent had unilaterally changed the amount of student contact time, and we ordered the parties to bargain about the subject for a period of 60 days. When they were unable to reach an agreement, we adopted and ordered Respondent to implement Complainant's proposal. One of the central policies of the Public Employee Collective Bargaining Act (PECBA) is to encourage the practice of collective bargaining between parties on employment relations matters. Respondent did not satisfy that obligation. However, we did not find Respondent's conduct egregious and did not order a civil penalty. We find no circumstances here that would dictate a greater or lesser than average award.

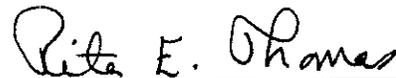
Having considered the appropriate charges for services rendered, our awards in similar cases, and the policies and purposes of the PECBA, this Board awards Complainant representation costs of \$3,300.

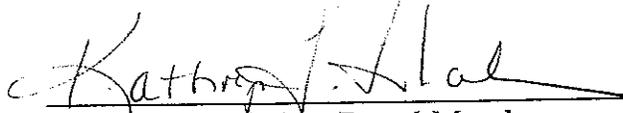
ORDER

Respondent shall remit \$3,300 to Complainant within 30 days of the date of this Order.

DATED this 20<sup>th</sup> day of May 2003.

  
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David W. Stiteler, Chair

  
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Rita E. Thomas, Board Member

  
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Kathryn T. Whalen, Board Member

This Order may be appealed pursuant to ORS 183.482.