

IN THE MATTER OF THE ARBITRATION BETWEEN

BMS Case No. 24-PA-0669

Waconia Education Association

v.

Waconia Public Schools,
Independent School District No. 110

ARBITRATOR:

Christine D. Ver Ploeg

DATE AND PLACE OF HEARING: June 25, 2025

Waconia School District Offices
Waconia, Minnesota

DATE OF RECEIPT OF POST-HEARING BRIEFS: September 12, 2025

DATE OF AWARD: September 19, 2025

ADVOCATESFor the EmployerMichael J. Waldspurger
333 South Seventh Street, Suite 2800
Minneapolis, MN 55402For the UnionEva Wood
Education Minnesota
41 Sherburne Avenue
St. Paul, Minnesota 55103

ISSUE

What rate of pay were teachers on the ELA Curriculum Review Committee entitled to receive for curriculum review work on June 6, June 8, and July 25 (or August 7), 2023?

BACKGROUND

The facts in this case are largely undisputed. The Waconia Education Association (“Union”) is the exclusive representative of all teachers who are employed by Independent School District No. 110 (“District”). The Union and the District are parties to a collective bargaining agreement (“CBA”) which governs the negotiated terms and conditions of employment for all teachers in the District. Article X, Section 3, Additional Compensation, is at the center of this dispute.

The District regularly establishes curriculum review committees at the high school, middle school and elementary school levels. Those committees, comprised of teachers recommended by their principal, meet on an annual basis. Participation is understood to be voluntary, although teachers are sometimes asked to consult with their principals to obtain replacements if they cannot or are unwilling to serve.

This case concerns the amount of pay that teachers participating in the 2023 Elementary School (K-5 ELA) Curriculum Review Team, the Grievants, should have been paid.

Prior to the summer of 2023 teachers participating in curriculum review teams did so during the regular school day, continuing to receive their regular pay while the District hired substitutes to cover their classes. However, on May 12, 2023, the District’s Interim Teaching and Learning Director sent the following

email to the Grievants, the educators who had been selected for the K-2 ELA curriculum review committee:

I am touching base with you as your principal recommended that you be a part of our K-5 ELA curriculum review team. In the past, our curriculum review has been done during the school year and we have “subbed out” our review committee to meet during the school day. With our shortage of subs, this is no longer a sustainable practice. As a solution, *we are moving our curriculum review process to the summer and will compensate our committee members with their contracted daily rate for out of contract time.* (Emphasis added).

* * * * *

If you have scheduling conflicts with June 6th and 8th, please work with your building principal to find a suitable replacement for this committee. Jake and I will be facilitating the beginning of the review in June and the new Director of Educational Services, Erika Nesvig, will facilitate the remainder of the review.

The parties’ collective bargaining agreement provides in Article X, Section 3, Subdivision 2:

“Curriculum writing shall be compensated at a rate of \$30 per hour for the 2023–2024 and 2024–2025 school years.”

Based on this provision, the District paid the Grievants \$30 per hour for approximately 3.25–5.5 hours on June 6, June 8, and either July 25 or August 7. The District emphasizes that it has consistently adhered to Section 3, Subdivision 2, paying all teachers \$30 per hour for curriculum work performed outside the regular school day.

By contrast, the Union argues that the May 12 email acknowledged a unique situation—summer work rather than school-year work—and clearly promised compensation at the higher *contracted daily rate for out-of-contract time*. Thus, the

Grievants should now be paid the difference between the \$30 per hour received and their regular daily teaching rate, plus interest.

On behalf of the Grievants, the Union filed a timely grievance. Unable to resolve the issue during earlier stages of the process, the parties proceeded to a hearing on June 25, 2025. The record closed upon receipt of the parties' written briefs.

RELEVANT CONTRACT LANGUAGE

Article X, Section 3, Additional Compensation.

Subdivision 2: Curriculum writing will be paid at a rate of \$30 per hour.

Subdivision 3: Teachers who perform an extension of their regular duties, as directed by the superintendent, over and above the basic number of duty days, shall be compensated at their regular rate of pay under schedules A and B on a pro-rata basis for extra services.

DISCUSSION AND DECISION

In this case the Union has had the burden of proving that it should be awarded the requested relief based upon contract language, past practice and principles of promissory estoppel. For the following reasons I find the Union has not met that burden.

I. Contract language

Analysis of any contract claim must begin with the CBA's text. Both parties cite Article X, Section 3, Subdivision 3, which applies when teachers, *as directed by the Superintendent*, perform an extension of their regular duties. However, as the District notes—and the Union concedes—this subdivision does not fit the

present facts: the Grievants were never directed by the Superintendent, nor was the work an extension of regular duties.

Although the Union initially identified Subdivision 3 in its grievance, it abandoned this argument at the hearing and in its post-hearing brief. The case thus turns on the applicability of Subdivision 2.

The Union contends that Subdivision 2, which addresses “curriculum writing,” does not apply because the Grievants were engaged in “curriculum review.” However, District witnesses credibly testified that the terms “writing” and “review” have long been used interchangeably. Therefore, Subdivision 2’s directive—compensation at \$30 per hour for curriculum work outside the regular school day—squarely applies and under its terms this grievance would be denied.

Nevertheless, the Union asserts that the May 12 email overrides this finding.

II. May 12, 2023 email

On May 12, 2023 the Interim Director of Teaching and Learning sent an email to the teachers who had been recommended by their principals to participate on the K-5 English Language Arts (ELA) curriculum review team. That email notified them that this review work, which had previously been performed during the school year, would have to meet in the summer because it had no longer been possible to obtain substitutes to cover their classes during the school year.

The essential question in this case is found in the email’s representation that the District would “compensate our committee members with their contracted daily rate for out of contract time.” The Union submits this clearly promised each committee member his or her pro rata pay based on their placement on the salary schedule. Presumably this was more than the \$30 per hour set forth in Subd. 2.

The District rejects the Union's argument on several grounds. First, while conceding that the email is not a model of clarity, the District notes that, as the Interim Director testified, it was never her intent to suggest pay beyond the \$30 per hour that had always been paid to all teachers for the same type of curriculum work taking place outside the regular school day. The Union concedes that no other curriculum committee members before, then, or since have been paid beyond the \$30 per hour rate.

Second, the District notes that neither the Interim Director, nor any other administrator, has the authority to alter the Contract's negotiated pay scale. For example, a high school principal could not unilaterally offer the advisor for a club the compensation rate of the head football coach. Those rates of pay are negotiated and memorialized within the collective bargaining agreement. Moreover, Union witnesses acknowledged an administrator does not have the right to pay employees for curriculum work at a *lower* rate than specified in the CBA. If so, a grievance would certainly follow. The District argues the Union cannot have it both ways.

Finally, the District argues that the Union's grievance boils down to a request to have the arbitrator establish a new term and condition of employment. The CBA specifically denies an arbitrator this authority.

In short, despite the less than clear language of the May 12 email, it is clear the Interim Director did not have the authority and never intended to alter the Contract's directive that curriculum writing be paid at \$30 per hour, and the email's contents did not clearly establish the contrary. This falls short of fulfilling the Union's burden of proof in this case.

III. Promissory Estoppel

The Union submits that despite the above findings the Grievants should be awarded the requested relief based upon the principles of promissory estoppel.

Each of the necessary elements, as set forth by the Minnesota Supreme Court in *Olson v. Synergistic Techs. Bus. Sys., Inc* 628 NW 2nd 142, 152 (Minn. 2001) are:

1. Was there a clear and definite promise?
2. Did the promisor intend to induce reliance, and did such reliance occur?
3. Must the promise be enforced to prevent injustice?

Clear and definite promise?

The Union submits that the May 12th email was clear and unambiguous. It promised a higher rate of pay for a unique situation in which committee members were obliged to convene in the summer rather than, as had always been the case, during the school year.

Despite this assertion, this email's language seems less than clear. The pay promised is "for out of contract time," which this committee work was and what Section 2's \$30 hourly rate is intended to address. Thus, the essential question is whether the email altered that rate by referencing, "their contracted daily rate."

The Union submits that "their" suggests variable remuneration for each individual teacher; the District argues equally plausibly that "their" refers to the committee members collectively, consistent with the District's unwavering pay practice. Given this ambiguity, I find that the email did not provide "a clear and definite promise."

Reliance?

The evidence is clear that the District never intended the email to create reliance on a rate of pay higher than the negotiated \$30 per hour. Nevertheless, the

question remains whether the Grievants did reasonably rely on a contrary understanding.

One Union witness credibly testified that she would never have accepted this assignment if she had understood it paid only \$30 per hour. Other witnesses have testified regarding their same understanding of the email's language and presumably relied upon it. However, that evidence when viewed in a broader context does not overcome the following:

First, Union witnesses acknowledged both on direct and cross-examination that they understood that the District has always paid teachers \$30 per hour for curriculum work, including curriculum "review work," done outside the duty day. No one has ever heard of anyone getting an inflated rate outside the curriculum writing rate identified in the CBA. This is strong evidence of an unwavering past practice of which committee members can be presumed to have known and understood.

Second, it is highly relevant that before doing this work no one questioned the rate or expressed confusion about it. Moreover, immediately after completing the curriculum work on June 6 and June 8, each committee member completed an electronic "Extra Duty" timesheet. The top of the timesheet stated "You have been pre-approved for curriculum and program development at a rate of \$30 per hour. This time sheet verifies completion of those hours." At the bottom of the timesheet each teacher on the committee checked the box for "curriculum writing." Accordingly, the District paid each teacher \$30 an hour for the work they had performed, and no one questioned this rate of pay until more than 3 weeks after the June 30, 2023, payroll. This evidence belies the claim that there was heavy reliance upon a contrary understanding of the pay to be received. Moreover, the evidence is credible that District employees, like many employees elsewhere, are quick to report any payroll matters they believe to be in error. If confused, at least one

affected Grievant could have been expected to more quickly question what they had been paid for this work.

Finally, elementary school principals were asked to and did interview their teachers on the K-5 ELA committee regarding their understanding of the hourly rate they expected to receive for that summer curriculum review work. There was no consensus. Some understood they would be paid \$30 an hour. Others thought they would be paid their daily rate of pay per the salary schedule. And others simply echoed the response, “What the email said.” The Union did not conduct a similar poll and thus it is impossible to identify which teachers did and did not rely upon an interpretation contrary to the CBA. This does not reflect consensus by which it can be said that the May 12 email created a reasonable reliance.

Injustice

The Union submits it is unjust to permit the District to renege upon a clear promise upon which the Grievants have relied. For reasons discussed above, it cannot be said that the May 12 email constituted a clear and definite promise, or that it was relied upon to such an extent as to negate the \$30 per hour rate set forth Section 3, Subdivision 2.

Nevertheless, the question remains whether it would be unjust to deny this grievance. The District submits that if anything it would be unjust to grant a windfall to a small group of employees by claiming they were confused by a poorly worded email from an Interim District administrator. This even though no Grievant soon sought to clarify this issue even after electronically signing a timesheet which stated they had been pre-approved at the rate of \$30 per hour, and despite being unable to identify which teachers were allegedly confused. In addition, District notes that this windfall would create an inequity because other

teachers who have performed the same type of curriculum review work before 2023, during 2023, and after 2023 have paid the contractual rate of \$30 per hour.

For all of the above reasons, I find that principles of promissory estoppel do not negate the clear language of Section 3. Subdivision 2.

AWARD

For the above reasons this grievance is hereby denied.

A handwritten signature in black ink, reading "Christine Ver Ploeg". The signature is written in a cursive, flowing style.

September 19, 2025

Christine Ver Ploeg, Arbitrator