

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE WAGE CLAIM	)	Case No. 347-2026
OF ANDREA SICIGNANO,	)	
	)	
Claimant,	)	
	)	FINAL AGENCY DECISION
vs.	)	
	)	
EDUCATIO RAD SCHOOL,	)	
	)	
Respondent.	)	

* * * * *

I. BACKGROUND

On August 5, 2024, Claimant Andrea Sicignano (Sicignano) filed a wage claim with the Montana Department of Labor and Industry, Employment Relations Division, alleging Respondent Educatio Rad School (Educatio) owed her \$18,161.00 in wages for work performed from September 15, 2023, through July 31, 2024.

On August 15, 2025, the Wage and Hour Unit issued its determination after investigation into Sicignano's wage claim. It determined that Educatio owed Sicignano \$2,282.68 in wages, with a 15 percent penalty of \$342.40 due. The Wage and Hour Unit's determination also indicated that if Educatio did not appeal or request a redetermination by September 1, 2025, then Educatio owed Sicignano \$2,282.68 in wages, with a 55 percent penalty of \$1,255.47 due.

On August 29, 2025, Educatio indicated its desire to appeal the Wage and Hour Unit's determination. Mandatory mediation occurred thereafter. The mediator indicated that mediation was unsuccessful.

On September 29, 2025, Educatio appealed the determination. The matter was transferred to the Office of Administrative Hearings (OAH) on October 3, 2025.

On October 10, 2025, a Notice of Hearing and Scheduling Conference was sent to the parties. That notice indicated a scheduling conference would occur in this matter on October 20, 2025, at 10:00 a.m., via audio conference.

After multiple attempts to mediate this matter and numerous procedural delays from both sides, on March 9, 2026, the Hearing Officer held a scheduling conference, setting new dates and deadlines, including a motions deadline and a hearing date of May 29, 2026.

The parties agreed during the final pre-hearing conference that the administrative record, Documents 1-111, would be admitted with no objection. At the hearing, the parties also agreed that Sicignano was an employee during the timeframe established by the Wage and Hour Unit. The parties also agreed that the dispute in this matter concerned not the total amount of wages determined owing by the Wage and Hour Unit, but rather whether check number 1112, in the amount of \$1,485.00, should or should not offset the wage amount found owing. The parties agreed that whatever wage amount was found owing, taxes should be withheld on the wage amount owing with penalties amounts thereafter determined.

The Hearing Officer convened a contested case hearing in the matter on May 29, 2026, in person and via Zoom video conference. Berkhof, counsel for Sicignano, Sicignano, and Sicignano's supporter, Camille Shephard, attended in person at 715 Front Street, Helena, Montana. Knuchel represented Educatio, with Emily Post (Post) attending as Educatio's representative. Both appeared via video conference. At hearing, Andra Gatt (Gatt) and Sicignano provided sworn testimony.

Sicignano offered Exhibits 200-202, 232, 236, 251, 257, 261, 272, 274, and 275, to which Educatio did not object and the Hearing Officer admitted. Educatio offered Exhibit A, to which Sicignano did not object and the Hearing Officer admitted. The Hearing Officer did not admit Sicignano's proffered Exhibits 254-256, 258-260, 262-269 and 271 because the Hearing Officer sustained Educatio's relevance objections as to those exhibits. Those exhibits concerned matters outside of the agreed-upon issue. Sicignano withdrew Exhibits 203-231, 234-235, 237-250, 252-253, 270, and 273 from consideration. Educatio withdrew Exhibits B-C from consideration.

The parties agreed to this matter being submitted for the Hearing Officer's consideration at the close of the hearing. Based on the evidence adduced at hearing and the arguments of the parties, the following Hearing Officer decision is rendered.

II. ISSUE PRESENTED

Whether Educatio owes Sicignano wages for work performed.

III. FINDINGS OF FACT

1. Sicignano began working for Educatio as a teacher for its outdoor preschool program in August 2023.
2. From August 15, 2023, through February 29, 2024, Sicignano's wage agreement consisted of a \$50,000.00 annual salary, or a \$4,166.67 monthly payment.
3. The parties do not dispute that Sicignano earned a total of \$27,083.35 from August 15, 2023, through February 29, 2024.
4. The parties do not dispute that Sicignano received a total of \$24,800.67 in wages, from August 15, 2023, through February 29, 2024, resulting in a difference of wages owed of \$2,282.68.
5. From March 1, 2024, through May 15, 2024, Sicignano's earnings were based on enrollment fees up to \$4,600.00 per month.
6. Educatio suspended Sicignano from employment for five days in April 2024, to require she obtain insurance and independent contractor designation. Due to the suspension, the amount Sicignano earned in April was \$2,114.00 (\$3,300.00 billed based on enrollment minus \$1,186.00 for not working five days).
7. Sicignano obtained an independent contractor license on May 16, 2024, in the name of Guided Wild, LLC.
8. From March 1, 2024, through May 31, 2024, Sicignano earned \$9,234.00.
9. From March 1, 2024, through May 31, 2024, Sicignano received \$8,639.00.
10. The difference between what Sicignano earned and received from March 1, 2024, through May 31, 2024, is \$595.00.
11. On May 3, 2024, Educatio paid to "Guided Wild" \$1,485.00, which was check number 1112.
12. Post did not send evidence of payment of the \$1,485.00, until after the time to seek a redetermination of the amount found owing from the Wage and Hour Unit passed.
13. Post provided a spreadsheet listing check number 1112 as payment provided to Sicignano in May 2024.

14. Sicignano received the \$1,485.00 payment in May 2024 and cashed the check.

15. Check number 1112 was not previously accounted for regarding Sicignano's earnings.

IV. DISCUSSION¹

A. Montana Wage Payment Act Requirements

"[E]very employer of labor in the state of Montana shall pay to each employee the wages earned by the employee in lawful money of the United States or checks on banks convertible into cash on demand at the full face value of the checks, and a person for whom labor has been performed may not withhold from any employee any wages earned or unpaid for a longer period than 10 business days after the wages are due and payable[.]" Mont. Code Ann. § 39-3-204(1). "Wages" include "any money due an employee from the employer or employers, whether to be paid by the hour, day, week, semimonthly, monthly, or yearly, and includes bonus, piecework, and all tips and gratuities[.]" Mont. Code Ann. § 39-3-201(6)(a). An "employee" is defined as "any person who works for another for hire, except that the term does not include a person who is an independent contractor." Mont. Code Ann. § 39-3-201(4).

An employee seeking unpaid wages has the initial burden of proving work performed without proper compensation. *America's Best Contrs., Inc. v. Singh*, 2014 MT 70, ¶ 25, 374 Mont. 254, 321 P.3d 95.

To meet this burden, the employee must produce sufficient evidence showing the amount and extent of such work as a matter of just and reasonable inference. Once an employee has shown as a matter of just and reasonable inference that wages have been earned but not paid, the burden shifts to the employer to come forward with evidence of the precise amount of the work performed or with evidence to negate the reasonableness of the inference drawn from the evidence of the employee. If the employer fails to produce such evidence, the employee is entitled to judgment in his or her favor, even though the amount is only a reasonable approximation.

America's Best Contrs., Inc., ¶ 25 (internal citations omitted). Employers are required to keep records of employees' hours. *See Arlington v. Miller's Trucking, Inc.*, 2015 MT 68, ¶ 16, 378 Mont. 324, 343 P.3d 1222 (citations omitted).

¹ Any statements of fact in this discussion are hereby incorporated by reference to supplement the findings of fact. *Coffman v. Niece*, 110 Mont. 541, 105 P.2d 661 (1940).

“[W]hen the employer fails to record an employee’s hours, the employee’s records may be used to determine the amount of time worked.” *Arlington*, ¶ 16.

Pursuant to Mont. Code Ann. § 39-3-206 and Admin. R. Mont. 24.16.7566, the lower amount of penalty owing is permitted only upon agreement of the parties. See Mont. Code Ann. § 39-39-206(2) (“Nothing in this section may be construed to relieve an employer from the requirement to pay an employee the full amount of wages due if the employer is found in violation of this part.”). Specifically, Admin. R. Mont. 24.16.7566 provides:

(1) For determinations involving claims filed on or after October 1, 1993, if none of the special circumstances of ARM 24.16.7556 apply, penalties are calculated as follows:

- (a) *a penalty equal to 55% of the wages determined to be due to the employee will be imposed in all determinations by the department; but*
- (b) the department will reduce the penalty to 15% of the wages determined to be due if the employer pays the wages found due in the time period specified in the determination as well as a penalty equal to 15% of that amount.

(2) If a claim involves any of the special circumstances of ARM 24.16.7556, the department will impose the maximum penalty allowed by law.

(3) The penalty calculated according to this rule may be reduced only upon the mutual agreement of the parties and the department.

(Emphasis added.)

B. Analysis

Educatio argues that \$1,485.00 should be credited toward, and thereby offset, the wages found owing to Sicignano, because Sicignano acknowledges receipt of and cashing of check number 1112.

Sicignano argues that Educatio had the chance to present evidence of the \$1,485.00 check to the Wage and Hour Unit and failed to do so. As such, Sicignano argues that Educatio waived the right to have it considered. In addition, Sicignano argues that the spreadsheet provided by Educatio listed check number 1112 and Educatio did not dispute the spreadsheet was incorrect, so the \$1,485.00 was already accounted for in the determination made by the Wage and Hour Unit. Sicignano also argues that the amount found owing by the Wage and Hour Unit would not change given the \$1,485.00 check, because the Wage and Hour Unit considered the fact Sicignano was to be paid up to \$4,600.00 per month from April 1, 2024, through April 30, 2024,

in assessing the wage amount found owing. Sicignano contends that amount coincides with the number of students Sicignano had enrolled in April 2024. Sicignano argues that the \$1,485.00 makes up for the missing wages due in April 2024, and Sicignano has wages missing still from February 15, 2024, through February 29, 2024. The Hearing Officer disagrees.

Regarding the arguments that Educatio has waived the right to have the check considered or that a finding, mistake, or decision made at that stage is binding, Montana Code Annotated § 39-3-216(3) provides “[i]f a party appeals the department’s determination [in a wage claim] within 15 days after the determination is mailed by the department, a hearing must be conducted according to contested case procedures under Title 2, chapter 4, part 6.” In particular, Mont. Code Ann. § 2-4-612 discusses the contested case hearing process, which includes a hearing de novo. Therefore, an underlying determination is not binding in a contested case proceeding. As a result, the underlying determination in this proceeding is only binding to the extent the parties stipulated to the issues presented. Gatt made clear at the hearing that she did not consider check number 1112 in the Wage and Hour determination, because it was not provided until later. The Wage and Hour determination makes that point clear, as well, given that the chart does not list check number 1112 as evidence of payment made. The Hearing Officer finds that to the extent Educatio listed check number 1112 as payment made to Sicignano on its chart submitted to the Wage and Hour Unit, yet that amount was not also included in wages paid, that issue is presented by this proceeding. Educatio did not waive its right to have check number 1112 considered by the Hearing Officer, because Educatio sought to appeal the determination. Further, to the extent Sicignano asserts she is due \$4,600.00 for wages owing in April 2024 according to the determination, the preponderance of the evidence shows she is due \$2,114.00 because she billed \$3,300.00 and subtracted \$1,186.00 for the five days she was suspended and not working.

The parties do not dispute the fact that Sicignano is owed payment. The preponderance of the evidence shows total amount owing to Sicignano is \$2,877.68, \$2,282.68, which resulted from the difference between Sicignano’s amount earned (\$27,083.35) and amount paid (\$24,800.67) prior to February 29, 2024, and \$595.00 which resulted from the difference between Sicignano’s amount earned (\$9,234.00) and amount paid (\$8,639.00) that covered the time period March 1, 2024 to May 31, 2024. The parties do not dispute that Sicignano was provided check number 1112, and that she cashed the check for a payment amount of \$1,485.00. The dispute in this matter concerns whether check number 1112 in the amount of \$1,485.00 should be deducted from the wage amount owing, such that the wage amount either stays the same or is reduced.

Wage and hour laws exist to compensate individuals for unpaid wages. Educatio agreed that Sicignano was an employee up until she was found by the Wage and Hour Unit to be an independent contractor. The preponderance of the evidence shows that Sicignano was due in total \$2,877.68. Educatio failed

to prove that the \$1,485.00 check was not in satisfaction of the amount owing from March 1, 2024 to May 31, 2024. Educatio issued the check in early May but wrote the check to Guided Wild, LLC after suspending Sicignano, to require her to obtain insurance and independent contractor designation. Educatio intended to pay a limited liability company. Accordingly, Educatio has not presented evidence to contradict the fact \$595.00 of its payment of \$1,485.00 should be attributed to the total amount due from March 1, 2024 to May 31, 2024, and that \$595.00, therefore, must be subtracted from the \$1,485.00. Doing so amounts to \$890.00. The Hearing Officer therefore finds \$890.00 in wages paid by the \$1,485.00 check. The \$2,282.68 is reduced by \$890.00. In subtracting \$890.00 from \$2,282.68, the Hearing Officer finds that Educatio owes Sicignano wages in the amount of \$1,392.68. A 55 percent penalty thereafter applies, under Admin. R. Mont. 24.16.7566.

The Hearing Officer does not reach Sicignano's additional argument that she should be reimbursed the fee she incurred in obtaining an independent contractor license. That issue is outside of the jurisdiction of the Hearing Officer because it does not concern wages or hours which the Montana Wage Protection Act governs. See Mont. Code Ann. § 39-3-201 et seq.

V. CONCLUSIONS OF LAW

1. The State of Montana and the Commissioner of the Department of Labor and Industry have jurisdiction over this complaint under Mont. Code Ann. § 39-3-201 et seq. *State v. Holman Aviation Co.*, 176 Mont. 31, 575 P.2d 923 (1978).

2. Check number 1112, in the amount of \$1,485.00, must offset the amounts found owing to Sicignano.

3. During the timeframe when Sicignano was an independent contractor, Educatio did not contest that \$595.00 remained owing, so \$595.00 is subtracted from the \$1,485.00 paid in this matter. Educatio paid Sicignano \$890.00 in wages that were not included in the Wage and Hour Unit determination.

4. Sicignano is owed \$1,392.68 in unpaid wages. Taxes shall be withheld from the \$1,392.68 in unpaid wages.

5. A 55 percent penalty applies, amounting to \$765.97.

VI. ORDER

Based on the foregoing, Educatio owes Sicignano wages for work performed, and Educatio is obligated to pay Sicignano penalties as provided by law. Educatio must pay \$1,392.68 in wages and \$765.97 in penalties. A

payment made payable to Sicignano, with an itemized statement showing payroll deductions, must be sent to the Department of Labor & Industry, P.O. Box 201503, Helena MT 59620-1503. The penalty amount must be included in the payment and taxes should be withheld from the wage portion only.

DATED this 27th day of August, 2026.

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF ADMINISTRATIVE HEARINGS

By: /s/ JOSLYN HUNT
JOSLYN HUNT
Hearing Officer

NOTICE: You are entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 39-3-216(4), by filing a petition for judicial review in an appropriate district court within 30 days of the date of mailing of the hearing officer's decision. See also Mont. Code Ann. § 2-4-702. Please send a copy of your filing with the district court to:

Department of Labor & Industry
Wage & Hour Unit
P.O. Box 201503
Helena, MT 59620-1503

If there is no appeal filed and no payment is made pursuant to this Order, the Commissioner of the Department of Labor and Industry will apply to the District Court for a judgment to enforce this Order pursuant to Mont. Code Ann. § 39-3-212. Such an application is not a review of the validity of this Order.