

LABOR UPDATES

OREGON EMPLOYMENT RELATIONS BOARD DECISIONS

1. DISCIPLINE, DISCRIMINATION, AND RETALIATION FOR PROTECTED ACTIVITY

Oregon AFSCME Council 75, Local 1422 v. Yamhill County, UP-027-24 (Nov. 20, 2025)

AFSCME challenged the County's discipline of two union stewards and its cancellation of a union meeting. The Board found the County had interfered with the stewards' protected union activity by disciplining the stewards out of animosity toward their union roles, and breached the parties' contract by failing to conduct required training and improperly using a letter of instruction in one employee's termination. The union's other claims were dismissed. The Board ordered reinstatement of the terminated steward, and rescission of the other steward's suspension.



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KEY TAKEAWAYS

- Disciplining stewards because of their union role is direct (1)(a) interference with protected union activity. Procedural shortcuts like skipping required training and misusing a letter of instruction can independently violate (1)(g) (breach of contract).
- Document legitimate, role-neutral grounds before disciplining a steward.

University of Oregon Student Workers v. University of Oregon, UP-029-23 (Sept. 10, 2025)

After the union organized student employees and was certified as the exclusive representative, it alleged interference with protected organizing activity, which was the only theory pursued on review. The Board sustained five interference with protected union activity violations—prohibiting organizing on work time, discriminating against union speech, and implying stipend delays based on organizing outcomes—while dismissing claims tied to supportive conversations and content-neutral policy enforcement. The University was ordered to cease-and-desist. The Board declined to order a notice posting and a civil penalty.

KEY TAKEAWAYS

- Content-based restrictions on organizing (barring it on work time while tolerating other solicitation, singling out union speech) and tying pay timing to organizing are (1)(a) interference with employees' organizing rights.
- Content-neutral, evenly applied policies remain defensible.

***Graduate Teaching Fellows Federation / UO Student Workers Union v. University of Oregon*, UP-010-25 & UP-014-25 (June 26, 2026)**

The Board held the University violated ORS 243.672(1)(a) (interference with protected rally activity) by initiating student-conduct actions against three student-employee union leaders because of their protected rally activity, but did not violate (1)(c) (discrimination based on union membership) or (1)(i) (misuse of public funds) on that theory. In a related complaint, the Board found the University violated (1)(e) (refusal to bargain) by unilaterally changing its policy on students' use of sound-amplifying devices during labor activities. On reconsideration, the Board ordered a notice posting and declined a civil penalty. The Board also clarified precedent on the dual status of student-employees, holding its jurisdiction reaches employee conduct (not student conduct) and declining to extend the unilateral-change doctrine to the University's student-conduct policy.

KEY TAKEAWAY

- An employer that also serves the same individuals as students cannot use its student-conduct code to discipline protected labor activity, but not every student-facing policy is a mandatory subject.

***Oregon School Employees Ass'n, Chapter 51 v. Tigard-Tualatin School District*, UP-041-23 (merits Feb. 7, 2025; stay order Mar. 7, 2025)**

On the merits, the Board found the District violated the Public Employee Collective Bargaining Act (PECBA) by eavesdropping on a private conversation among union officers, restricting protected speech, violating *Weingarten* rights, and changing schedules in retaliation for a grievance. The Board denied the District's motion to stay pending judicial review finding no irreparable injury or colorable claim of error and warned that the District must comply within ten days.

KEY TAKEAWAYS

- Eavesdropping on union officers and curbing protected criticism are clear (1)(b) (interference with the union's internal deliberations) and (1)(a) (interference with employees' protected speech) violations.
- The Employment Relations Board (ERB) will not lightly stay its remedial order while an employer seeks judicial review.

2. SURVEILLANCE AND INTERFERENCE WITH THE UNION'S REPRESENTATIONAL ROLE

Lane Community College Education Ass'n v. Lane Community College, UP-060-23 (July 22, 2025)

The Board found the College interfered with protected discussion of union-related topics in violation of ORS 243.672(1)(a) by instructing Faculty Council co-chairs not to discuss faculty minimum qualifications and certifications (and threatening legal action), and by surveilling the union's confidential listserv (when a manager was receiving, reading, and forwarding member-only emails). The Board also found unlawful direct dealing over the Division Faculty Coordinator position. Retrenchment, anonymous-complaint, and aggregate-violation claims were dismissed, and the Board declined representation costs or a penalty, finding neither party the prevailing party.

KEY TAKEAWAYS

- Monitoring a union listserv is unlawful surveillance in violation of (1)(a) (interference through unlawful surveillance) if the Union has a reasonable expectation of privacy in the listserv.
- Using the threat of litigation to restrict protected discussion in a shared-governance body violates (1)(a) (interference with protected discussion).
- Soliciting employee input on bargaining-unit positions is direct dealing.

Multnomah County Corrections Deputy Ass'n v. Multnomah County Sheriff's Office, UP-049-24 (merits Jan. 29, 2026; representation-cost order Apr. 13, 2026)

On the merits, the Board held the Sheriff's Office interfered with the union's status as exclusive representative by telling a bargaining-unit member that a rival organization (the Fraternal Order of Police) could attend Internal Affairs interviews, interfering with the Association's core role as exclusive representative, and imposed a \$1,000 civil penalty over a partial dissent on the penalty. Subsequently, the Board entered another order awarding the Association \$32,580 in representation costs, entered with no objections.

KEY TAKEAWAYS

- Inviting a rival organization into disciplinary interviews interferes with the exclusive representative.
- Beyond any ULP finding and/or the civil penalty amount, the award of a civil penalty can carry substantial fee exposure, such as the \$32,580 in representation costs.

3. DEALING DIRECTLY WITH REPRESENTED EMPLOYEES—DIRECT DEALING AND WEINGARTEN

Greater Albany Ass'n of Classified Employees v. Greater Albany Public Schools, UP-064-24 (June 6, 2025)

After a teachers' strike, the District emailed the represented classified employees a \$35/day incentive-pay offer before reaching agreement with the Association. The Board found the District refused to bargain in violation of (1)(e) by adjusting wages before bargaining

and engaged in unlawful direct dealing in violation of (1)(b) and (e) by bypassing the Association and dealing directly with employees. The (1)(i) (misuse of public-funds) claim was dismissed. The Board ordered the employer to cease-and-desist, post a notice, and pay a \$1,000 civil penalty.

KEY TAKEAWAYS

- Communicating an offer on a mandatory subject directly to represented employees mid-bargaining is per se direct dealing and can draw a civil penalty.
- Employers must route all proposals on mandatory subjects, such as incentive pay, through the union.
- Direct dealing alone is not a (1)(i) (misuse of public funds) violation absent intent to erode union support.

***City of Portland Professional Workers Union v. City of Portland*, UP-051-24 (Jan. 6, 2026)**

Arising from a layoff and reorganization, the union alleged retaliatory layoff under (1)(a)/(c), a *Weingarten* denial, and direct dealing under (1)(e) tied to a September 4 severance meeting. The Board dismissed the complaint in full: the layoffs were part of a broader reorganization with no causal link to protected activity; the September 4 meeting was informational (not investigatory and not reasonably likely to lead to discipline), so no *Weingarten* right attached; and there was no direct dealing because the City did not present, detail, or negotiate the severance and directed interested employees to a September 6 meeting with their representative. A dissenting member would have found the severance preview to be unlawful direct dealing.

KEY TAKEAWAY

- An informational meeting does not trigger *Weingarten*, and an employer can avoid direct dealing by declining to discuss terms and routing represented employees back to their union—but the split shows how close the direct-dealing line is when severance is previewed.

***AFSCME v. Oregon Health & Science University*, UP-028-25 (July 14, 2025)**

AFSCME alleged OHSU interfered with the employee's right to union representation in violation of (1)(a) by conducting an investigatory interview of an employee who requested but did not receive union representation. The matter was resolved by a consent order: AFSCME withdrew its complaint, and OHSU agreed to provide *Weingarten* training to HR staff, expunge warnings from the interview, and modify the employee's performance plan.

KEY TAKEAWAYS

- A *Weingarten* misstep will often give rise to a ULP or create a procedural defect at the outset.

- For missteps, employers may consider resolving these issues through a consent order (e.g., training, expungement, and a plan fix) which avoids a merits finding while still remedying the misstep.
- Train HR to honor representation requests before the interview proceeds.

4. THE DUTY TO BARGAIN—UNILATERAL CHANGE, STATUS QUO, AND THE SCOPE OF (1)(E)

AFSCME Local 2064 v. Benton County, UP-019-24 (Aug. 28, 2025)

AFSCME alleged the County unilaterally changed pay and leave practices for salaried exempt employees through a memo on flextime. The Board found that the County did **not** refuse to bargain: the memo clarified an existing practice (flex time based on operational need, without hour-for-hour banking) and did not change the status quo. The Board dismissed the complaint and did not impose any penalties or fees.

KEY TAKEAWAY

- A memo that restates an established practice is not a unilateral change. A (1)(e) (refusal to bargain) claim requires proof of an actual departure from a fixed past practice.

Portland State University Faculty Ass'n v. Portland State University, UP-047-25 (Oct. 3, 2025)

After the 2023 Collective Bargaining Agreement (CBA) expired, Portland State University (PSU) declined to disburse funds for professional development, hardship payments, and union release time, citing contract expiration. The Board found PSU refused to bargain and comply with PECBA in violation of (1)(e) and (f) by failing to maintain the status quo during the hiatus as to Articles 12, 13, and 15, and dismissed the interference with protected activity and discrimination based on union membership claims for lack of unlawful motive. It ordered PSU to cease and desist, restore the status quo, make affected employees whole plus 9% interest, and post and email a notice.

KEY TAKEAWAY

- Contract expiration does not authorize halting wage-related payments. The status quo on mandatory subjects continues through the hiatus and make-whole relief carries 9% interest.

Northwest Education Ass'n v. Northwest Regional Education Service District, UP-024-25 (Apr. 13, 2026)

A budget shortfall led to temporary involuntary transfers in the Early Learning Department and the Association demanded to bargain the impacts. In a non-precedential order, the Board found the District violated (1)(a) by interfering with representational activity and chilling advocacy, and (1)(e) by implementing the transfers without bargaining impacts. The Board dismissed the remaining claims and ordered that the employer cease-and-desist, engage in good-faith bargaining, and post a notice, but declined to impose a penalty.

KEY TAKEAWAYS

- Even a budget-driven staffing decision requires impacts bargaining before implementation.
- Because the order is non-precedential, it binds only the parties—instructive, but not citable authority.

Eugene Police Employees' Association v. City of Eugene, UP-052-24 (Apr. 3, 2025)

The City moved the Community Service Officer unit to four 10-hour days and the Union grieved a CBA violation and demanded bargaining, which the City declined. The Board dismissed the (1)(e) (refusal to bargain) complaint without a hearing, holding the dispute was properly a contract-interpretation matter that had to proceed under ORS 243.672(1)(g) (breach of contract) or the grievance process.

KEY TAKEAWAYS

- When a change turns on what the CBA permits, ERB treats it as a contract dispute for (1)(g)/grievance resolution, not a (1)(e) refusal-to-bargain claim.
- Frame the theory to match the dispute or risk dismissal at the threshold.

Oregon AFSCME Council 75, Local 189 v. City of Portland, UP-020-24 (Mar. 21, 2025)

AFSCME alleged the City engaged in surface bargaining over implementing a claimed 2021 agreement for 2% longevity pay. The Board found no (1)(e) (refusal to bargain) violation: the May 2021 email AFSCME relied on was not an enforceable agreement, any claim to enforce it was time-barred (filed nearly three years later), and the Board viewed the surface-bargaining theory as an attempt to resurrect a time-barred contract-enforcement claim. The complaint was dismissed.

KEY TAKEAWAY

- An informal email is not a binding agreement, and a stale contract-enforcement claim cannot be repackaged as surface bargaining to escape the limitations period.

5. THE DUTY TO PROVIDE INFORMATION

Oregon AFSCME Local 189 v. City of Portland, UP-032-25 (Feb. 20, 2026)

During successor bargaining, AFSCME requested demographic data (race, ethnicity, sex, age) linked to names and personnel numbers for roughly 600 employees. The City produced most information but withheld unredacted demographics for employees who requested confidentiality, offering anonymized data instead. ERB dismissed the (1)(e) (refusal to bargain) complaint, finding AFSCME failed to show that unredacted data for hundreds of non-unit employees was probably or potentially relevant to bargaining or grievance processing, and so did not reach the City's confidentiality arguments.

KEY TAKEAWAY

- The union bears the burden of establishing relevance, and that burden is higher for sensitive data about non-unit employees. Offering anonymized data can satisfy the duty; an employer may withhold pending a relevance showing but should propose alternatives.

6. REPRESENTATION AND ELECTIONS

Communications Workers of America, Local 7901 v. City of Portland & Oregon AFSCME Council 75, RC-021-25 (June 9, 2026)—case of first impression

Communications Workers of America (CWA) filed a card-check petition to be certified without an election and a group of employees (through AFSCME) filed a competing petition supported by at least 30% of the unit. The Board held that ORS 243.682(4) requires an election rather than automatic card-check certification in this posture, and, looking to substance over form, treated AFSCME's mislabeled "intervention" petition as a valid election petition so employees could choose among CWA, AFSCME, or no representation.

KEY TAKEAWAY

- A rival showing of interest of 30% or more defeats card-check certification and triggers an election, and ERB will not dismiss a competing petition on a labeling technicality.

7. PRIVATE-SECTOR JURISDICTION (ORS CHAPTER 663)

Craft Tenders Union v. DIY Bar, PU-001-24 (Feb. 6, 2026)

In a private-sector case under Oregon's "little NLRA" (ORS chapter 663, reaching employers over whom the National Labor Relations Board (NLRB) declines jurisdiction), the majority found DIY Bar did not violate Oregon's private-sector protections against employer interference with employees' organizing and bargaining rights and dismissed the complaint, crediting the owner's statement that employees could "buy into" the business during a mandatory meeting as sarcasm, and declining to import the NLRB's *Cemex* framework. Member Khosravi dissented, viewing the buy-in statement as an unlawful promise of benefit designed to dissuade organizing under ORS 663.120.

KEY TAKEAWAYS

- ERB's private-sector jurisdiction under chapter 663 is active, and the Board is charting its own course (declining to adopt *Cemex*).
- Employer remarks about ownership stakes during anti-union meetings carry real risk, as the dissent underscores.

Disclaimer: This summary is not legal advice and is based upon current statutes, regulations, and related guidance that is subject to change, with or without notice. It is provided solely for informational and educational purposes and does not fully address the complexity of the issues or steps employers must take under applicable laws. For legal advice on these or related issues, please consult qualified legal counsel directly.