

**STATE OF OREGON, EMPLOYMENT RELATIONS BOARD
DUTY OF FAIR REPRESENTATION
UNFAIR LABOR PRACTICE COMPLAINT**

For ERB Use Only

Case No. _____

Date Filed _____

File your complaint (with any attachments) and pay the \$300 filing fee on our online Case Management System-CMS (<https://apps.oregon.gov/erb/cms/auth>). You may also mail, fax, email, or hand-deliver your complaint to:

Employment Relations Board
528 Cottage St. NE, Suite 400
Salem, OR 97301
Email: ERB.Filings@oregon.gov
Fax: (503) 373-0021
Phone: (503) 378-3807

If using our online CMS, you will be directed to a payment option to pay the required \$300 filing fee. At this time, only ACH payments (*i.e.*, those using a checking account) can be processed through our CMS—**credit card payments are not currently supported**. If you do not use our online payment system, you may also mail or hand deliver the \$300 filing fee. Your filing is not complete until the \$300 is paid. There is an additional \$25 fee to file a document by fax.

1. COMPLAINANT

Name, address, phone number, and email address.

2. COMPLAINANT’S REPRESENTATIVE

Name, address, phone number, and email address.

3. RESPONDENT LABOR ORGANIZATION

Name, address, phone number, and email address.

4. LABOR ORGANIZATION’S REPRESENTATIVE

Name, address, phone number, and email address.

5. RESPONDENT EMPLOYER

Name, address, phone number, and email address.

6. EMPLOYER’S REPRESENTATIVE

Name, address, phone number, and email address.

7. Complainant alleges that Respondent Labor Organization has violated ORS 243.672(2)(a), which makes it an unfair labor practice for a labor organization or its designated representative to interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under ORS 243.650 to 243.782.

- Complainant also alleges that Respondent Employer has violated ORS 243.672(1)(g), which makes it an unfair labor practice for a public employer or its designated representative to violate the provisions of any written contract with respect to employment relations including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept arbitration awards as final and binding upon them. (Check box if applicable to this Complaint.)

8. This Complaint includes the following requests (check all that apply):

- A request that the Board award a civil penalty, pursuant to ORS 243.676(4) and OAR 115-035-0075.
- A request that the Board order reimbursement of the filing fee, pursuant to ORS 243.672(3) and OAR 115-035-0075.
- A request that the Board expedite all or part of this Complaint, pursuant to OAR 115-035-0060.

9. Statement of Claims

You must attach a statement of claims to this Complaint. The statement must provide the following information:

- A clear and concise statement of the facts involved in each alleged unfair labor practice (including relevant dates, names, places, and actions);
- A specific reference to each section and subsection of the law allegedly violated; and
- A brief description of the remedies Complainant is seeking.

If you refer to documents in the statement of claims, you may attach copies of those documents to the statement.

If you are requesting a civil penalty and/or fee reimbursement, the statement of claims must also include an explanation of why you believe a civil penalty and/or filing-fee reimbursement is appropriate in your case, and a clear and concise statement of the facts alleged in support of the request(s). *See* OAR 115-035-0075.

If you are requesting expedited processing, you must also provide the affidavit required by the Board's rules. *See* OAR 115-035-0060.

I certify that the statements in this Complaint and the attached statement of claims are true to the best of my knowledge and information.

By:

Signature of Complainant or Complainant's Representative

Title

Date

INSTRUCTIONS FOR FILING DUTY OF FAIR REPRESENTATION
UNFAIR LABOR PRACTICE COMPLAINT

Confirm You are Using the Correct Unfair Labor Practice Form

The Employment Relations Board (ERB) has four different unfair labor practice complaint forms:

1. Unfair Labor Practice Complaint Against Public Employer: Use this form for claims that a public employer violated one or more of the subsections of ORS 243.672(1) or ORS 243.752 of the Public Employee Collective Bargaining Act (PECBA).
2. Unfair Labor Practice Complaint Against Labor Organization: Use this form for claims that a labor organization or public employee violated one or more of the subsections of ORS 243.672(2) or ORS 243.752 of PECBA.
3. Duty of Fair Representation Unfair Labor Practice Complaint: Use this form if you are a public employee and your claim is that a labor organization violated its duty of fair representation under PECBA, ORS 243.672(2)(a). You can use the same form to file a related claim against a public employer for violation of PECBA, ORS 243.672(1)(g).
4. Private Sector Unfair Labor Practice Charge: Use this form only for unfair labor practice claims under the Oregon private sector labor-management relations law, ORS 663.005-663.295.

Filing Requirements

To file an unfair labor practice complaint, you must submit the following to ERB:

1. A complete and signed unfair labor practice form;
2. A statement of claims; and
3. A \$300 complaint filing fee.

You do not need to give ERB any extra copies of the complaint, and you do not need to serve the complaint on the respondent.

Filing Methods

You may file your complaint by using our online Case Management System-CMS (*preferred*) (<https://apps.oregon.gov/erb/cms/auth>). You may also mail, fax*, email, or hand-deliver the complaint and any attachments to:

Employment Relations Board
528 Cottage St. NE, Suite 400
Salem, OR 97301
Email: ERB.Filings@oregon.gov
Fax: (503) 373-0021*
Phone: (503) 378-3807

If using our online CMS, you will be directed to a payment option to pay the required \$300 filing fee. At this time, only ACH payments (*i.e.*, those using a checking account) can be processed through our e-filing system—**credit card payments are not currently supported.**

If you do not use our online CMS to pay the \$300 filing fee, you may mail or hand-deliver a check payable to Employment Relations Board. Please note that the complaint will not be deemed filed until the date that the Board receives the \$300 filing fee.

*There is an additional \$25 fee to file a document by fax. There is no additional fee to file by other methods (CMS, mail, email, or hand delivery).

Fill Out the “Duty of Fair Representation Unfair Labor Practice Complaint” Form

- Section 1: The “Complainant” is the party that is filing the complaint. In a Duty of Fair Representation (DFR) case, the complainant is a public employee. Provide your (the complainant’s) name and contact information.
- Section 2: The “Complainant’s Representative”: If the complainant will be represented by an attorney or other advocate in this unfair labor practice case, provide the representative’s name and contact information. If you are representing yourself (without an attorney), explain that in Section 2 by writing, for example, “No representative,” or “Self-represented.”
- Section 3: The “Respondent Labor Organization”: The respondent is the party against whom the complaint is being filed. In a DFR case, the primary respondent is the labor organization that represents your (the complainant’s) bargaining unit. Provide the labor organization’s name and contact information.
- Section 4: The “Labor Organization’s Representative”: If you know that the Respondent Labor Organization is represented by an attorney or other advocate, provide that representative’s name and contact information. If you do not know who the representative is, note that in Section 4 (for example, write “unknown”).
- Section 5: The “Respondent Employer”: Do not fill out this section *unless* you are filing a related complaint against your (the complainant’s) public employer. You may file a related complaint against the employer if you allege 1) that your employer violated the union contract that covers your bargaining unit, and 2) that the Respondent Labor Organization’s conduct prevented you from pursuing your claim that your employer violated the contract. If you are filing a related complaint against your public employer, provide the employer’s name and contact information.

*To file a related complaint against your public employer, you do not need to file a separate complaint form. There is only one filing fee of \$300, regardless of whether you file your complaint just against the labor organization or both the labor organization and the employer.

- Section 6: The “Employer’s Representative”: If you know that the Respondent Employer is represented by an attorney or other advocate, provide that representative’s name and contact information.
- Section 7: This section identifies the subsections of PECBA that you allege the respondent(s) violated. Check the box if you are filing a related complaint against your employer.
- Section 8: This section lists the optional requests (for a civil penalty, filing-fee reimbursement, or expedited processing) that you may make by including the request in the complaint and meeting additional requirements, which are described in Section 9. If you are making any of those requests at this time, check all of the boxes that apply.
- Section 9: This section describes the requirements for the “Statement of Claims” that you must file with your complaint. This section also describes the additional requirements that apply if you are requesting a civil penalty, filing-fee reimbursement, or expedited processing of your case.

If you refer to documents in your statement of claims, you may attach copies of some or all of those documents, but you are not required to do so. If you choose to submit documents to ERB, you should redact private or confidential information, such as social security numbers.

Certify and Sign the Complaint

You must sign and date the complaint form. By signing the complaint form, you are certifying that all of the statements in the Complaint (including the Statement of Claims) are true to the best of your knowledge and information.

For More Information

The most extensive sources for information on unfair labor practice case procedures are PECBA, ORS 243.650-243.782, and ERB's administrative rules, specifically in Divisions 10 and 35. A copy of those laws and rules are available in ERB's Rulebook, which is posted on ERB's website: <http://www.oregon.gov/erb>. ERB also posts other resources on its website that may be helpful to you, including a guide titled, "Questions and Answers: PECBA Unfair Labor Practice Cases," which provides basic information about unfair labor practice case procedures.

You may also contact ERB at (503) 378-3807, or Emprel.Board@oregon.gov. ERB staff can answer questions regarding procedures and applicable laws and rules. However, they are not permitted to give you legal advice.