

STATE OF OREGON, EMPLOYMENT RELATIONS BOARD

**UNFAIR LABOR PRACTICE COMPLAINT
AGAINST PUBLIC EMPLOYER**

File your complaint (with any attachments) and pay the \$300 filing fee on our online [Case Management System \(CMS\)](#). You may also mail, fax, email, or hand-deliver your complaint *see **Filing Methods***.

*ERB Case No. provided
upon filing*

Case No.: UP-001-22

Date Filed: 1/10/22

1. COMPLAINANT

Name, address, phone number, and email address.

Graduate Teaching Fellows Federation
609 E. 13th Ave.
Eugene, OR 97401

(541)344-0832

president@gtff.net

2. COMPLAINANT'S

REPRESENTATIVE Name,
address, phone number, and email
address.

Miche Dreiling
American Federation of Teachers
10228 SW Capitol Highway
Portland, OR 97219

(971)998-8794

miched@aft-oregon.org

3. RESPONDENT (EMPLOYER)

Name, address, phone number, and email address.

University of Oregon
1585 East 13th Avenue
Eugene, OR 97403

(541)346-1000

pres@uoregon.edu

4. RESPONDENT'S

REPRESENTATIVE Name,
address, phone number, and email
address.

5. Complainant alleges that Respondent has violated the following section(s) of ORS chapter 243 of the Public Employee Collective Bargaining Act, which make it an unfair labor practice for a public employer or its designated representative to (check all that apply):

- 243.672(1)(a): Interfere with, restrain or coerce employees in or because of the exercise of rights guaranteed in ORS 243.662.
- 243.672(1)(b): Dominate, interfere with or assist in the formation, existence or administration of any employee organization.
- 243.672(1)(c): Discriminate in regard to hiring, tenure or any terms or condition of employment for the purpose of encouraging or discouraging membership in an employee organization.
- 243.672(1)(d): Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or has given information or testimony under ORS 243.650 to 243.806.
- 243.672(1)(e): Refuse to bargain collectively in good faith with the exclusive representative.
- 243.672(1)(f): Refuse or fail to comply with any provision of ORS 243.650 to 243.806.
- 243.672(1)(g): 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.
- 243.672(1)(h): Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.
- 243.672(1)(i): Violate ORS 243.670(2), relating to the use of public funds to support actions to assist, promote or deter union organizing.
- 243.672(1)(j): Attempt to influence an employee to resign from or decline to obtain membership in a labor organization.
- 243.672(1)(k): Encourage an employee to revoke an authorization for the deductions described under ORS 243.806.
- 243.752: Refuse or fail to comply with any provision of a final and binding arbitration award.

6. 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.

7. 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 filing-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

Miche Dreiling

Field Representative

1/10/22

Title

Date

Statement of Facts

The Graduate Teaching Fellows Federation at the University of Oregon (GTFF) brings an unfair labor practice claim that the University of Oregon (UO) violated ORS 243.672(1)(e) for refusing to bargain collectively in good faith with the exclusive representative. As stated in ORS 243.650(4), the employer's bargaining duty applies to all mandatory subjects of bargaining.

The UO provost's email of January 6, 2022 at 12:05:52 PM PST [attached, with relevant linked resources] added a recording requirement for graduate employees (GEs) who teach in-person classes, which clearly impacts GE working conditions - they will now be recorded while they work. The GTFF acknowledges that there is a pedagogical caveat to this policy, but it is not clearly and explicitly directed to GEs and again, has not been collectively bargained. Approximately 950 GEs have teaching appointments during winter term. This constitutes roughly two-thirds of the bargaining unit.

This unilateral institution of policy changing GE working conditions via email update is part of a continuing course of action, not exclusively but particularly during the COVID-19 pandemic. The GTFF acknowledges and appreciates that making changes quickly is essential in a global health crisis, and has proved willing to engage in expedited impact bargaining processes with UO for this reason; however, due to the lack of advance written notice from UO, the GTFF is often left to request changes after the policy has been instituted rather than to collectively bargain the change beforehand.

Concerns and implications arising from this mandatory change include issues of privacy, security, intellectual property ownership and academic freedom, use of recordings in matters of discipline and performance evaluations, training on the policy and expected skills, and equipment needs within the classroom.

There was a change in the status quo to a mandatory topic of bargaining, a matter of employment relations as defined in ORS 243.650(7)(a). The UO, by unilaterally instituting a change to a mandatory topic of bargaining without written notification of intent to the exclusive representative, refused to bargain in good faith. The employer did not fulfill its bargaining obligation prior to changing GE employment conditions.

The GTFF requests that this policy be revoked until the university's bargaining obligation has been fulfilled. The GTFF requests that a notice of unfair labor practice conduct be posted publicly due to the significant number of impacted bargaining unit members and because this action is part of a continuing course of conduct on the part of UO.

**Fwd: Winter Term Update**

1 message

Organizing GTFF <organizing@gtff.net>
To: Miche Dreiling <miched@aft-oregon.org>

Thu, Jan 6, 2022 at 4

In solidarity,

Tali Bitton
VP for Organizing
AFT - GTFF Local #3544
University of Oregon
Pronouns: he/him/his

----- Forwarded message -----
From: **Tali Bitton** <bitton Tali@gmail.com>
Date: Thu, Jan 6, 2022 at 12:10 PM
Subject: Fwd: Winter Term Update
To: eboard <eboard@gtff.net>

Begin forwarded message:

From: "Provost Patrick Phillips" <provost@uoregon.edu>
Subject: Winter Term Update
Date: January 6, 2022 at 12:05:52 PM PST
To: tbitton@uoregon.edu
Reply-To: provost@uoregon.edu



Office of the Provost

Dear University of Oregon community,

We are grateful to have you here and engaged in a winter term that is more challenging than some. We especially appreciate everyone's flexibility around the unanticipated travel disruptions experienced by many of our faculty, staff, and students. Oregon has been on the lagging end of the latest COVID-19 surge caused by the Omicron variant. However, we now have a much clearer picture of what the next month is likely to look like with respect to incidence levels within the university community.

We are fortunate that this surge does not constitute a public health emergency for the university, as we have had the essential mitigation tools of vaccination, testing, and masks in place since the start of the academic year. Indeed, at last count, over 95 percent of our community is vaccinated.

Because of the need to isolate upon infection, it is now clear that there is a potential for a short-term disruption in coursework for many students, and we want to ensure that we have appropriate continuity in educational opportunities and operations as the surge progresses. As I said in my [message on December 28](#), we have prepared to manage potential disruptions caused by faculty, staff, and student quarantine and isolation requirements.

With that in mind, we are immediately implementing the following policies:

- We are now following updated Centers for Disease Control and Prevention (CDC) and Oregon Health Authority (OHA) guidelines shortening quarantine and isolation periods to five days when certain conditions are met, as detailed in our [COVID exposure guidelines](#).
- Faculty members who need to quarantine, isolate, or who have a family member who needs to stay at home for a COVID-related cause will continue to follow our [previous remote teaching policies](#), which include moving their courses to synchronous online instruction during the period of their own quarantine or isolation. [Resources on providing coursework](#) remotely are available online.
- Upon approval of deans and department heads, instructors may move courses that are experiencing 20 percent or more COVID-related student absences to synchronous online instruction for a limited period to provide more equitable course access to students. This will usually not apply to courses that do not lend themselves to a rapid shift to remote instruction, such as lab, workshops, internships, and studios. Faculty should consult with their deans about special cases. We continue to emphasize in-person instruction as the best option whenever possible and instructors may continue to teach in person even with 20 percent or more of their class absent.

- Instructors who remain in person are required to provide recorded versions of their courses to absent students, unless there is a pedagogical reason not to do so, following guidelines recently enacted by the [Academic Council](#) so that students needing accommodation for COVID-related absences can have access to course materials.
- Instructors are required to provide students with at least 24 hours' notice before any change in modality.
- Students who are unable to attend a class for COVID-related reasons should contact their instructor right away to make arrangements for the class and complete the [case and contact form](#).
- Supervisors and employees should work together on flexible work approaches if necessary for COVID-related absences due to quarantine or isolation. And we remind all employees of the [leave options](#) available should they be unable to work due to illness.
- Disposable surgical masks continue to be available in classrooms, and we anticipate that a limited number of disposable KN95s may also soon be available during the upcoming surge for those who have forgotten their masks at home.

To be clear, campus remains open and administrative offices will continue with their current operational stance. The surge is predicted to largely be abated by early February. We therefore expect that at this time all courses will return to in-person instruction by Monday, February 7, and other operations to go back to a more routine flexible work environment posture. We will continue to carefully monitor for any evidence of classroom or workplace transmission of the virus, which could necessitate a broader campus-wide response.

Mounting evidence indicates that being fully up to date on vaccination substantially helps to mitigate the most severe effects of Omicron, so we remind everyone to become fully up to date on booster shots when eligible, as required by the [university vaccination policy](#).

This is not how we had hoped to begin 2022. But we firmly believe that by following these steps we can minimize operational disruptions on campus through this surge while continuing to keep our community safe. Thank you, once again, for your commitment and cooperation.

Sincerely,

Patrick Phillips
Provost and Senior Vice President

1258 University of Oregon, Eugene OR 97403-1258
P: 541-346-3186 | F: 541-346-2023

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(https://uoregon.edu/?utm_source=banner-module&utm_campaign=banner)
Office of the Provost (0)

Winter 2022 Academic Council Expectations

Academic Council Expectations Update for Winter 2022

January 6, 2022

The complete Academic Council expectations for Winter 2022 are still in effect and are modified by this update (see modified full expectations below this update). Due to a spike in student absences at beginning of Winter 2022 term because of travel-related and COVID issues, the Academic Council is providing the following update to Winter 2022 expectations. These clarifications are meant to ensure absent students have equitable access to course material and learning opportunities, and to minimize as much as possible faculty effort in managing student absences. In most cases, the simplest approach to achieve and demonstrate equitable access that will take the least effort from instructors is to record the class.

Recording of classes is required *unless there is a valid pedagogical reason to not do so*. Individual faculty are in the best position to make this pedagogical decision for their classes and for each teaching session. Recording may not be the best way to achieve equity for absent students for labs and discussion sections, studios, or for interactive learning activities etc. Faculty electing to not record will need to be able to achieve and demonstrate equitable access through other means. See below for examples and support for other approaches.

The university has upgraded general-pool classrooms to make recording simpler. See [here](https://teaching.uoregon.edu/classroom-recording) (<https://teaching.uoregon.edu/classroom-recording>) for instructions on how to record while teaching in-person. Instructors will of course retain discretion in how they make their class recordings available so long as, at a minimum, absent students are able to access any available class recordings.

In some cases, instructors may want to allow remote access to live class sessions (what we call a “hyflex” format). [See these instructions for setting up a hyflex classroom](https://provost.uoregon.edu/winter-2022-academic-council-expectations)

<https://provost.uoregon.edu/winter-2022-academic-council-expectations>.

There may be good pedagogical reasons for approaches other than class recordings or hyflex. For example, for courses (or class sessions) that are discussion-based or experiential in nature instructors could:

- Ask students to engage in the day's reading and complete a written assignment in response.
- Use discussion boards to engage students in the material for the day.
- Use pre-loaded Canvas quizzes.

These are just a few examples and you can find others [here](#) (<https://teaching.uoregon.edu/resources/flexible-equitable-access-course-content-during-covid>). You can also reach out to [TEP for consultations](#) (<https://teaching.uoregon.edu/services>), if you need additional support.

Academic Council Winter 2022 Guidance and Expectations during COVID-19 Pandemic

Originally Approved by Academic Council | November 30, 2021

Modified by Academic Council | January 6, 2022

Preface

The Academic Council met on November 30, 2021 to discuss guidance for Winter term 2022. Given that the university is continuing most of its COVID regulations and guidance for Winter 2022, including testing, quarantining and instruction not to come to campus with symptoms, the council decided to continue expectations from Fall 2021 into Winter 2022. While acknowledging the challenges faculty are facing in dealing with student absences and need for accommodations, the council concluded that the current guidance provides the best possible balance of flexibility for students and discretion for faculty to make decisions that maintain the integrity of the course.

The council also recognized that some faculty are wondering how to best translate its guidance into practice. To help with that, the council offers examples of specific statements from its