

INSTRUCTIONS: File the original and three copies of the complaint and all attachments and the \$300 filing fee with the Board at:

528 Cottage St NE, Suite 400
Salem, Oregon 97301-3807
Phone 503-378-3807

STATE OF OREGON
EMPLOYMENT RELATIONS BOARD

UNFAIR LABOR PRACTICE
COMPLAINT
Public Employment

For Board Use Only

Case No. UP-005-12

Date Filed 1/12/12

COMPLAINANT Name, address, and phone number Association of Oregon Corrections Employees P O Box 13357 Salem, OR 97309	COMPLAINANT'S REPRESENTATIVE Name, address, and phone number, if applicable Becky Gallagher Fenrich & Gallagher, P.C. 423 Lincoln Street Eugene, OR 97401 (541) 342-7820
RESPONDENT Name, address, and phone number Oregon Department of Corrections 1793 13th Street SE Salem, OR 97302-2595	RESPONDENT'S REPRESENTATIVE Name, address, and phone number, if applicable Craig Cowan Department of Administrative Services 155 Cottage Street, NE, U80 Salem, OR 97301-3971

Complainant alleges that Respondent has committed an unfair labor practice under ORS 243.672(1) (e) of the Public Employee Collective Bargaining Act. The following is a clear and concise statement of the facts involved in each alleged violation, followed by a specific reference to the section and subsection of the law allegedly violated. (For each claim, specific dates, names, places, and actions. Attach copies of main supporting documents referred to in the statement of claims.)

I certify that the statements in this complaint are true to the best of my knowledge and information.

See Attached.

RECEIVED

JAN 12 2012

EMPLOYMENT
RELATIONS BOARD

By:

Becky Gallagher

Signature of Complainant or Complainant's Representative

Attorney
Title

January 11, 2012
Date

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EMPLOYMENT
RELATIONS BOARD

BEFORE THE EMPLOYMENT RELATIONS BOARD
OF THE STATE OF OREGON

ASSOCIATION OF OREGON CORRECTIONS)	Case No.: UP- 005 - 12
EMPLOYEES,)	
Complainant,)	COMPLAINT CHARGING
vs.)	UNFAIR LABOR PRACTICE
STATE OF OREGON, DEPARTMENT OF)	
CORRECTIONS,)	
Respondent.)	

The Association of Oregon Corrections Employees (herein referred to as AOCE) alleges as follows:

1.

At all times relevant hereto, AOCE is a labor organization as defined in ORS 243.650(13), which is the exclusive representative of certain employees of the State of Oregon, Department of Corrections, including employees employed at the Oregon State Penitentiary, the Oregon State Correctional Institution, Mill Creek Correctional Facility and South Fork Forest Camp. AOCE represents the correctional officer series, including corrections officers, correctional corporals and correctional sergeants at all four (4) institutions as well as the non-custody series employees at each institution except the Oregon State Correctional Institution.

2.

At all times relevant hereto, the State of Oregon, Department of Corrections (DOC) is a public employer as defined in ORS 243.650(20).

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1 3.

2 At all times relevant hereto, AOCE represented employees and the State of Oregon, Department
3 of Corrections are parties to a Collective Bargaining Agreement (CBA) defining terms and conditions of
4 employment for the represented employees, which Collective Bargaining Agreement expires on June
5 30, 2013.

6 4.

7 The Oregon State Correctional Institution (OSCI) is a medium security prison at DOC. Inmates
8 are housed in various housing units throughout the institution. Unit 3 is one of the housing units. Unit 3
9 has historically been a general population unit, housing primarily inmate workers. Given that the
10 inmates housed in Unit 3 all held jobs it was seen as an honors unit.

11 5.

12 On or about June 15, 2011 BHS Manager Regina Nekuda sent an e-mail to OSCI staff on the
13 multi-disciplinary committee informing them of updates to Mental Health Unit (MHU) and Behavioral
14 Health Services (BHS) policies. See attached Exhibit 1. This e-mail outlined various housing levels for
15 mental health inmates and noted that "A MHU is simply considered a more supportive housing
16 environment since we can easily identify those inmates as having Mental health issues, however, there
17 are no additional resources allocated as with a DTU. It is designed to be more supportive, which is the
18 rationale for having some BHS staff on the unit at OSCI as well as BHS orderlies available to some of
19 the higher needs inmates." Through this email and MDT meetings in June 2011 AOCE member
20 Corporal Craig Garner and AOCE representatives Carl Ralls and Robert Amburgey learned that OSCI
21 had implemented a mental health housing unit at OSCI in Unit 3.

22 6.

23 On June 29, 2011 AOCE filed a written demand-to-bargain over the changes with the mental
24 health housing in Unit 3 at OSCI. AOCE demanded to bargain the changes to working conditions, hours
25 of work, staffing levels and officer safety. See attached Exhibit 2.

26 7.

27 On August 2, 2011 AOCE representatives including Becky Gallagher, Carl Ralls, Craig Garner,
28 Robert Amburgey and Al Quick met with DOC representatives including Craig Cowan, John Nees,

1 Regina Nekuda, and Jana Russell to discuss AOCE's concerns with the mental health housing unit at
2 OSCI. The parties met again on September 30, 2011 (in attendance was Becky Gallagher, Mike Van
3 Patten, Carl Ralls, Robert Amburgey, Nick Koval, John Nees and Craig Cowan) and agreed to hold the
4 bargaining timelines on the demand-to-bargain in abeyance while AOCE and DOC continued to work
5 on the issues informally at labor/management and monthly BHS meetings. This was confirmed via e-
6 mail on October 3, 2011. See attached Exhibit. 3.

7 8.

8 On or about the first week of December, 2011, AOCE representatives Carl Ralls and Robert
9 Amburgey learned from staff working in Unit 3, including Officer Jerry Combs, Officer Monte McBeth,
10 and Corporal Daryl Rosenau that Unit 3 was renamed as mental health housing and that strictly mental
11 health inmates would be housed in Unit 3. Since that time only mental health inmates have been housed
12 in Unit 3. Unit 3 has received no additional staffing to accommodate the mental health inmates, as
13 opposed to the honors inmates that used to occupy the unit. There are only two (2) officers assigned to
14 Unit 3 on any given shift. The 2nd officer assigned to Unit 3 (also called the "second key") is required to
15 leave the unit on a consistent basis for up to four (4) hours in an eight (8) hour shift. This leaves only
16 one (1) officer to provide security in a now completely mental health housing unit, including performing
17 tier checks and cell checks. The mental health inmates have higher rates of self-harm, are more
18 dangerous, and cannot safely be supervised by one (1) security staff.

19 9.

20 The parties met again on January 5, 2012 to revisit the demand-to-bargain and outstanding issues
21 with the mental health housing at OSCI. Along with the above individuals present at the September 30,
22 2011 meeting were Anita Nelson, Jana Russell, Bill Hoefel, and Rob Persson all from DOC. AOCE
23 representatives Carl Ralls and Robert Amburgey explained the safety threat that had been created when
24 Unit 3 was made solely a housing unit for mental health inmates given the need to pull the second key
25 for up to four (4) hours in an eight (8) hour shift. DOC refused to bargain over the changes to Unit 3 of
26 the lack of staffing and serious, significant impact it has to the on-the-job safety of staff.

27 //

28 //

1 10.

2 DOC's action in unilaterally making Unit 3 at OSCI a mental health housing unit without any
3 additional security staff is an Unfair Labor Practice and constitutes a violation of ORS 243.672(1)(e).
4 This change substantially increases workload and significantly impacts on-the-job safety.

5 10.

6 Complainant AOCE is entitled to its representation costs.

7 11.

8 WHEREFORE, the complainant AOCE requests the Board for its order finding that the
9 Respondent has violated ORS 243.672(1)(e), for the Board's order restoring the status quo, for the
10 Board's order directing Respondent to bargain in good faith, for Complainant's costs of representation
11 incurred herein, and for such further and other relief as will make the Complainant whole in this matter.

12 Respectfully submitted this 11th day of January, 2012.

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14 _____
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