

Grievance Demand to Bargain Unfair Labor Practice

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Oregon State Fire
Fighter Council
2026 Educational Seminar

International Association
of Fire Fighters

AFL-CIO



Grievance Definition



Grievance - In the context of the Oregon Public Employee Collective Bargaining Act (PECBA), a grievance is an allegation by an employee, group of employees, or a labor organization that the employer has violated a specific term of the current collective bargaining agreement (CBA).

Grievance Process



Informal discussion

- Discuss with management or appropriate party per CBA
- Try to resolve at the lowest level and then escalate as needed
- This could be a simple miss by officer or management and bringing it to their attention can be a quick resolve
- Timeline to submit will be based on your CBA
 - Typically, between 14-45 days

Grievance Process



Formal Written

- Grievant name and Locals name
- Date of the incident
- CBA articles violated
- Detailed description of the incident or violation – Who, what, when, where, why
- Remedy or solution sought
- Record of prior steps taken to remedy the situation

Grievance Process



Important tips to the Grievance Process

- Fact finding is key, two sides to every story
- Put in the work to interview all parties involved and do your research
- Be specific, dates, times, people, etc...
- Keep good notes and records
- Don't miss the deadline or timelines (use a calendar to march days out)

Grievance Process



Important Questions to Ask Yourself

- What's the long game?
- What is your CBA process?
- Do you plan on taking it to the finish line through Grievance Arbitration?
- Do you need legal counsel to assist?
- Is there a better option to resolve the grievance? MOU?
- Does your CBA grievance language need to be updated?



Grievance Process

Example Process:

1. Informal resolution
2. Formal Grievance to BC (or higher as appropriate) – 15 calendar days from occurrence or knowledge of
3. The BC has 10 weekdays to resolve the issue or forward to AC
4. AC has 10 weekdays to resolve the issue or forward to FC
5. FC has 10 weekdays to resolve or forward to the Board of Directors
6. Board has 10 weekdays from the date of their next board meeting to resolve
7. If not resolved, the Local or grievant has 10 weekdays to request arbitration

Grievance Process



Grievance Example

Chief XXXXX,

On behalf of Local 1062 and all those affected, as of March 9, 2016 Local 1062 confirmed that the Paramedic probationary employees were not receiving their EMT pay in accordance with 18.5 of our Collective Bargaining Agreement.

18.5 EMT PAY

In addition to the rate shown above, employees who are Oregon State certified EMT-P will be paid a salary premium of 9.5% on their base pay.

Local 1062 is asking that the 9.5% be paid back retroactive to the firefighters first day of academy.

Respectfully sent,

Kevin Larson

President, Local 1062

Grievance Process



Gresham Professional Fire Fighters Association
Local 1062



Mr. Kvarsten,

On behalf of Local 1062 and all affected members, I am advancing the union's grievance concerning newly hired firefighters who are not receiving their Paramedic (EMT-P) pay as per the collective bargaining agreement ("CBA") between IAFF 1062 and the City of Gresham. This grievance has been to the Fire Chief without resolution and, accordingly, Local 1062 is moving this matter to Step 4 as per the grievance procedure in the CBA.

The union's position is that the probationary members of the bargaining unit are entitled to paramedic pay under Article 18.5 of the CBA. Further, it is the Union's recollection that in the last negotiations Local 1062 agreed to a 10% across the board decrease of pay in "Step 0," as the city called it, to save the city money while firefighters are being trained in their 12 week academy. However, there was neither opening nor discussion of Article 18.5. This article defines the pay that a person receives in addition to their base wage (or Step) if they have obtained their Oregon State Paramedic Certificate ("EMT-P"). This article rewards those EMT-P's that have obtained the extra 2 years of education, including an additional degree, internship and rigorous testing to obtain a certification of Paramedicine.

In addition to Article 18.5, it should be noted that the City has a past practice of always paying this EMT-P premium from the date of hire. This is an additional vital skill that these employees bring to the City of Gresham and our community. The CBA has always been very specific concerning the benefits that probationary firefighters are entitled to and which benefits and contractual provisions that are different from non-probationary members of the bargaining unit. (See for example, Article 9.1 which doesn't allow probationary employees just cause protection for discipline, 12.1 limits accrual of sick leave, and 18.3 which describes step movement for probationary employees.) Clearly, if the City wanted to deny payment of paramedic pay to probationary bargaining unit members, they were free to raise this issue in the last round of bargaining. The City didn't. The union feels strongly that there was no communication regarding Paramedic incentive in negotiations and further feels the city was not forthcoming about the probationary firefighter pre-hire agreement.

Local 1062 was very surprised when this issue came up, and we began an investigation to find out what happened. Discussions with the Fire Chief ensued. Our understanding of the discussion is that the Chief decided that it was unnecessary to pay the new employees this compensation. The Chief's decision concerning this matter conflicts with our members' contractual benefit in Article 18.5.

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Another troubling finding in our investigation, is the new hires have been required to sign pre-hire agreements which conflict with rights that they have under the CBA from the first day of their employment. This pre-hire agreement prohibits paramedic pay until they have completed their FTEP(Field Training Evaluation Program). According to the US Supreme Court, pre-hire agreements that effect mandatory subjects of bargaining, including paramedic pay are illegal under the law. *(Individual contracts may not waive benefits provided for in the collective bargaining agreement. In the seminal case addressing the relationship between individual contracts and collective bargaining, the United States Supreme Court held: "[t]he individual hiring contract is subsidiary to the terms of the trade agreement and may not waive any of its benefits." J.I. Case Co v. National Labor Relations Board, 321 US 332, 336 (1944)).* Should the City persist in maintaining that this type of pre-hire agreement is valid, the union will have no recourse but to file an unfair labor practice complaint with the Employment Relations Board.

Under the practice which the city has unilaterally adopted, apparently the newly hired employees signed a document that they would not receive their paramedic pay until they pass their FTEP. This also was never discussed with Local 1062. Operationally the FTEP process usually lasts another 3-6 months after the firefighter is put on the line after academy. So the effect of the city's practice is to delay the receipt of paramedic pay for this period of time.

In discussions with the Fire Chief, he also indicated that he felt the Union had negotiated away their paramedic pay during the last negotiations for probationary employees for the duration of their attendance at academy. The Union's bargaining team totally disagrees with the Chief's recollection. Additionally, we cannot find any negotiation notes that support this claim.

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Local 1062 is requesting that:

- All affected firefighters receive their paramedic pay that is contractually binding retroactively to the point of hire (first day of academy) and that they be made whole.
- That the following information be provided by the City to the Union, within the time proscribed for your response, under the Public Employees Collective Bargaining Act:
 - all pre-employment (pre-hire) agreements for the past 5 years that have been signed by bargaining unit employees be provided to the Union,
 - all bargaining notes, proposals, or any other information that the Union bargained away paramedic pay for probationary bargaining unit members, and
 - any other information in the possession of the City which the employer relies upon to support its position in this matter.

Respectfully sent,

A handwritten signature in black ink, appearing to read 'KL'.

Kevin Larson, President

IAFF Local 1062
Gresham Professional Fire Fighters

P.O Box 1941 Gresham, Oregon 97030

Grievance Process



Grievance Arbitration

<https://www.oregon.gov/erb/Pages/ArbList.aspx>

Go to the ERB website and request arbiter based on your CBA process language.

Demand to Bargain



Definition:

- Formal request to bargain due to changes in mandatory subjects of bargaining outside of the scope of the current CBA. (Wages, hours, conditions, retirement or safety).
- Can also be used to open-up contract negotiations for a successor agreement.



Demand to Bargain

Expedited Bargaining Process: (during a CBA)

- Under this process, an employer must give the union notice of its intent to change a condition that imposes a bargaining obligation. Within 14 days after the employer's notice, the union may file a demand to bargain.
- Failure to do so within the 14 days is a waiver of the union's right to bargain.
- The required bargaining obligation ceases 90 days after the employer's notice to the union. During that 90-day period, the parties may jointly request mediation, but binding arbitration cannot be initiated in the 90 day period.
- If no agreement has been reached once the 90 days has passed, either party may initiate binding interest arbitration.
- ORS 243.698 outlines the 90-day process

Demand to Bargain



Unilateral change:

- What if the employer makes a change to a mandatory subject of bargaining without notice?
- It is the Union's responsibility to file a formal DTB within 14 calendar days of knowledge or being made aware of the change.

Demand to Bargain



What if the employer refuses to bargain?

- The Union or employees can file an Unfair Labor Practice (ULP) with ERB.
- This can lead to an investigation by ERB to determine if the refusal violates labor law.
- ORS 243.672 outlines unfair labor charges

Demand to Bargain



Word to the wise

- Hold informal conversations with management to resolve
- Maintain timelines and build out a calendar with due dates
- Consult with your DVP for advice
- Seek legal counsel as needed
- Keep good records with dates, times, changes, etc...

Demand to Bargain



Example:

- Employer reduces your three-person engine to two-person staffing.
 - Impact to our safety as it relates to staffing.
 - 1710
 - Salem case (circa 1987)
- Change to health insurance.
 - Impact to benefits

Unfair Labor Practice



Definition

- **Unfair Labor Practice (ULP)** is a specific violation of state labor laws that protect the rights of employees to organize and bargain collectively.



Unfair Labor Practice

Employer examples

- Interfering with or coercing employees exercising their right to join or assist a labor organization.
- Dominating or assisting in the formation of an employee organization.
- Discriminating in hiring or tenure to encourage or discourage union membership.
- Refusing to bargain in good faith with an exclusive representative.
- Violating a written contract or refusing to sign a reached agreement.
- Influencing an employee to resign from or decline union membership.
- Failure to abide by final and binding arbitration.
- To see what constitutes a public employer ULP,
see https://oregon.public.law/statutes/ors_243.672

Unfair Labor Practice



Employee examples

- Coercing employees in the exercise of their rights
- Refusing to bargain in good faith with the employer
- Engaging in "unconventional strike activity," such as slow down or sick call out
- Picket or cause, induce, or encourage to be picketed, or threaten to engage in such activity
- To see what constitutes a labor organization ULP, see [ORS 243.672\(2\)](#).

Unfair Labor Practice



Statement of Claims

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

Unfair Labor Practice



More information

- [ULP Guide and Q & A](#)
- [ERB website - ULP](#)
- Talk to your DVP
- Consult with legal counsel

Unfair Labor Practice



Example

- Employee on probation, obtained paramedic certification
- Side note, employee was previous volunteer receiving reimbursement for his paramedic program fees, once he was hired full-time he no longer received reimbursement. WTF!
- Contract language states that any employee that holds a paramedic license will receive the P incentive. No other stipulations.
- Employee was offered a position at another jurisdiction and made management aware.
- Employer engaged with member to let him know he would not be receiving his paramedic incentive since he would be moving to another fire department.
- Union rep was not engaged

Unfair Labor Practice



Two part

- ULP based on direct dealing
- Grievance for no pay for P license
- Informal conversations to start with no traction – Management called this a one off and special case
- Presented to management in a formal meeting and they opted to pay the employee his paramedic for his remaining time with the FD

Questions

