



EMPLOYMENT RELATIONS BOARD

2024 STRATEGIC PLAN AND DEI PLAN

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Mission

The mission of the Employment Relations Board is to resolve labor-relations disputes for all Oregon public sector employers, employees, and labor organizations representing those employees (as well as a small share of Oregon employers, employees, and labor organizations in the private sector). In doing so, we administer the collective bargaining law that covers Oregon public-sector employees (and some private-sector employees) and adjudicate personnel-action appeals from State of Oregon employees. We also provide mediation and training services to assist in resolving and avoiding labor-relations disputes.

Vision

Our vision is to fairly, quickly, and correctly process and resolve unfair labor practice complaints, representation petitions, and state personnel-action appeals. Our vision is to also provide prompt, high-quality mediation and training services to assist parties in their labor relations.

Values

Our values are that the people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employees, and that unresolved disputes in the public service are injurious to the public, the governmental agencies, and public employees. To that end, the protection of the right of employees to organize and negotiate collectively safeguards employees and the public from injury, impairment and interruptions of necessary services. Our values are to encourage practices fundamental to the peaceful adjustment of disputes arising out of differences as to wages, hours, terms and other working conditions, and to establish greater equality of bargaining power between public employers and public employees.

Additionally, our values consist of recognizing that the state has a basic obligation to protect the public by attempting to assure the orderly and uninterrupted operations and functions of government. Our values also seek to embed diversity, equity, and inclusion as core principles in our daily work. Our neutrality in administering and enforcing our authorizing statute is also an essential value.

Agency Political, Economic, Social, Technological, Legal, and Environmental Factors

Primarily, the agency is governed by our authorizing statutes, the Public Employee Collective Bargaining Act (PECBA), and the State Personnel Relations Law. Those statutes, and the principles and policies that they embody, have the most direct and obvious affect on our work. Other statutes, particularly new statutes affecting workplace issues (Pay Equity, Paid Leave Oregon, etc.) can also collaterally affect our work as the subject of those issues often concern mandatory subjects of bargaining. Indeed, the agency has seen both mediation and adjudicatory requests related to other bills that affect wages, hours, and other terms and conditions of employment.

Likewise, the state of the economy also affects our work, as it directly impacts public employers and public employees (and by extension the labor organization representing those employees). There is not a direct casual link between a strong or weak economy and the agency's workload, as both can alter the dynamics of collective bargaining. Similarly, broader social movements, and broader labor activism can also peripherally affect the labor-management dynamic, and therefore the work of the agency.

Technological changes, particularly the ability to electronically file with the agency and to conduct virtual hearings, mediations, and trainings, have had a major affect on the agency in recent years. These

changes have, in large part, been of great importance to the agency in continuing to timely provide services to our constituents, despite a years-long trend in increased cases. The agency fully expects that future changes, particularly those related to Artificial Intelligence, will also affect the agency, as those changes also affect public services.

Finally, the agency has a responsibility to provide our services throughout the entire state. This often means extensive travel for our administrative law judges, and particularly our mediators. We engage in regular and ongoing communications with our constituents, and parties seeking services, as to how they prefer receiving those services (in person or virtually). Since the resuming of in-person services, we have seen a large number of constituents prefer receiving services in-person, while also preserving (and appreciating) the option of virtual services (or a combination of the two).

Agency Strengths, Weaknesses, Opportunities, and Threats

Agency feedback from our constituents, as well as our own internal assessments and measurements have identified consistent themes. The agency has a strong track record over the last decade of providing parties with prompt dispute resolution services, particularly in the area of representation/bargaining unit clarification petitions, unfair labor practice adjudication, and State personnel appeals. The agency is recognized for having well-qualified Board members, judges, mediators, and administrative staff, who provide high quality customer service. Constituents would like to see improved website resources, particularly in the area of dynamic searchability of Board orders. To that end, the agency has recently partnered with the State of Oregon Law Library to provide that resource, and we are well on our way to achieving that goal.

The agency's small size (just 13 full-time employees) also presents challenges, particularly when we have multiple labor-relations disputes that require ongoing mediation services. With just three mediators, it is not uncommon for that division to be stretched beyond capacity, thus requiring the rescheduling of services. With the potential approval of a policy option package for our 2025-27 budget, we hope to have the opportunity to add a staff member to not only provide needed mediation services, but to better fulfill our legislative mandate of providing labor-management training. That opportunity would ultimately result in reflecting our agency's core values of advancing labor-management cooperation and ensuring the uninterrupted delivery of public services to all Oregonians.

Because of our small size and a budget that is over 80 percent personal services, the agency has little leeway when it comes to unexpected expenses. Some of those unexpected expenses are structural and a result of occurrences outside of the agency's control. For example, when a party appeals an agency decision to the court, the agency is required to procure (and pay for) a certified transcript. Although we do our best to accurately estimate those costs, especially with increased caseloads, those costs are ultimately unknown and can create budgetary issues when it comes to the limited discretionary spending available to the agency. Likewise, the amount and expense of travel, particularly our mediators, also threatens budgetary flexibility, but again remains outside agency control.

Equity Statement and Diversity, Equity, and Inclusion Plan

As noted above, diversity, equity, and inclusion are core agency values, and we seek to continually improve embedding those principles in our daily work. The agency recognizes that historical inequities require foregrounding equity in how we fulfill our legislative mandate. We do that by using an equity lens in how we process representation petitions, provide mediation services, adjudicate matters before us,

respond to public requests, and make information available and accessible on our website. That means being mindful of how entrenched inequities and implicit biases may inadvertently affect how we perform our work and striving to consistently overcome them. That also means providing ongoing training and learning opportunities to continue instilling equity as a core feature of fulfilling our agency's mission. In 2019, for example, the agency provided a mandatory training for all staff on implicit bias.

Likewise, the agency recognizes that increased diversity and a culture of inclusion enhance the value and resonance of our work. To that end, in June 2023, we initiated an initial Diversity, Equity, and Inclusion (DEI) "plan for a plan." In that initial document, we identified two strategy areas for our DEI Plan: (1) enhancing the diversity of our arbitrator panel; and (2) assessing whether our current forms, communications, and processes reflect goals of a robust and meaningful DEI Action Plan. For those strategy areas, we believed that it was essential to (1) conduct a survey of our arbitration panel; and (2) engage with constituents and create a DEI Committee comprised of both constituents and agency staff. We completed both of those goals and have since identified additional steps and measures to foreground diversity, equity, and inclusion as core agency values.

Arbitrator Panel Diversity

As noted in our initial "plan for a plan," our agency is required to maintain a panel of arbitrators to assist constituents in labor-relations disputes. In 2022, we held multiple public meetings to discuss with constituents and any interested members of the public how we, as an agency, could best assess and enhance the diversity of our arbitration panel. After those meetings, we cohosted a Summit on Enhancing Arbitrator Diversity. We then generated a summary of those proceedings (Summary of Proceedings at the 2022 Summit on Enhancing Arbitrator Diversity). The public meetings and the summit revealed that the agency could not meaningfully tackle the issue of arbitrator diversity because we currently did not collect demographic information on the arbitrators on the panel. Therefore, we had no way to measure what our panel looks like. Our first component of our DEI Plan was to gather that information by June 16, 2023.

We completed that goal by sending a survey to our arbitration panel, asking those individuals to self-identify in a number of categories that included historically marginalized groups. We had a strong survey response of 36 arbitrators (our panel currently has 53 arbitrators). While those survey results were pending, we established a DEI Committee comprised of agency staff and constituents. The creation of that committee was a second achieved goal of our initial plan. One of the features of that initial plan was to use that committee to achieve our second goal of assessing whether our current forms, communications, and processes reflected the goals of the State's DEI Action Plan and the Governor's expectations.

DEI Committee Formation and Meetings

The DEI committee was formed in October 2023 and consists of ERB staff and labor and management practitioners. The committee has held three meetings so far and has brainstormed various ways that the agency can improve its DEI practice. As a result, the Committee has focused on a few key topics: Arbitrator diversity, law school outreach, and accessibility to caselaw for constituents online. Regarding the ongoing work to diversify ERB's pool of arbitrators, the committee started by debriefing an arbitrator diversity summit that was hosted by ERB and the Oregon Labor Employment Relations Association (LERA) in September 2022. Based on the ideas generated during that summit, the Committee proposed ongoing opportunities to meet new arbitrators, including virtual "brown bags" over the lunch hour hosted by ERB or labor law firms and in-person "mixers" or events as part of LERA, the Labor

Education & Research Center (LERC), and Oregon State Bar Labor & Employment Section events. The Committee also provided feedback on how to better highlight the current Arbitrator Mentorship Program, in addition to the current advertisements in our ERB newsletters. Specifically, the Committee suggested creating a “mentorship award” and an “equity award” to provide more awareness to the program. Two current arbitrators, including an arbitrator that is very involved in DEI work within the arbitrator community, were asked to provide ongoing feedback on the ideas generated by the Committee and the feedback has been positive.

Website/Technology and DEI

The Committee also addressed potential improvements to ERB’s website, including ways to more comprehensively access ERB case law. The Board has subsequently improved the search capabilities on the agency website and partnered with the Oregon Law Library to include all Board cases online, thus greatly increasing accessibility. Constituents were briefed on the latest improvements to ensure that constituents are aware of the various search options and provided instruction on how to use them. The agency has also updated language on our website to join our arbitration panel to highlight the agency’s commitment to a diverse panel and by encouraging potential applicants to contact the agency about joining the panel.

Outreach and DEI

The Committee has also largely focused on law school outreach. The Committee identified early on that there is a critical need to ensure that students have access to opportunities to practice labor law – to both improve diversity of the labor bar and to address the arbitrator diversity “pipeline” issue. Accordingly, the Committee has proposed a mentorship program that would pair practitioners with current law students interested in labor law. This agency would act as a liaison, pairing students and practitioners based on the student’s specific interests (*e.g.* a student interested in being general counsel at a union would then be put in contact with in-house counsel at an Oregon union). Our agency will solicit volunteers through its established contact channels, including at an upcoming event celebrating the 50th anniversary of the Public Employee Collective Bargaining Act, that will be widely attended. The agency has also contacted the three Oregon law schools (Willamette Law School, OU Law School, and Lewis and Clark Law School) about the mentorship program, and those institutions are very excited to offer the opportunity to students. The Committee is also organizing an externship (internship for school credit) opportunity at the agency, modeled after the OJD clerkship program, which prioritizes diverse applicants. Agency staff has met with all three Oregon law schools on the Committee’s behalf, and all the schools are interested in posting the position. Currently, we anticipate that agency will be able to have an extern on board for the next spring 2025 semester. The Committee is currently focused on preparing for the externship application process and plans to meet in the late summer, once the agency has done further groundwork for the externship position.

DEI Plan Goals, Projects, and Strategies

Project 1: Receive and Implement Recommendations from the agency’s DEI Committee on expanding arbitration panel diversity. Reconvene DEI summit by January 1, 2026, to report on agency measures undertaken since the previous summit and solicit additional ideas from constituencies.

Project 2: Conduct annual DEI survey of arbitration panel. The agency will continue to conduct an annual DEI survey of our arbitration panel to monitor and inform additional DEI measures.

Project 3: Offer an ERB Externship to law students by Spring 2025 to help address the “pipeline” issue referenced above and be actively inclusive in introducing potential new practitioners to the field of labor relations.

Project 4: Conduct annual outreach to constituents to request and encourage that they agree to a Mentorship Program for current law students. This project also addresses the “pipeline” issue addressed above and has been a primary area of focus of our DEI Committee.

Project 5: Host or promote at least two networking opportunities described above for current law students or new practitioners. This is another way to inclusively reach out to those who might be considering entering a career in public sector labor relations, in an effort to increase the diversity of our field.

Additional Key Goals, Projects, and Strategies

The agency will continue to prioritize processing representation petitions and adjudicating unfair labor practice complaints/personnel appeals in a neutral manner consistent with statutory directives and our key performance measures. This is a core function of the agency that we continually monitor and assess. Likewise, the agency will continue to work to minimize the number of labor-relations disputes and effectively resolve those disputes through mediation services consistent with our key performance measures. One area of constituent feedback that the agency is prioritizing is providing easier access to key agency resources, including dynamically searchable Board orders.

To achieve our goals and strategies, the agency has identified the following projects, which we have organized chronologically by the projection completion date.¹

Project 6: Update SPRL Q&A Guide by January 1, 2025 and update by January 1 each following year. This guide is an important tool, particularly for non-attorney State employees who may wish to appeal a disciplinary action. We need to ensure that the guide is up to date and reflects any statutory, regulatory, or case law changes. This is important to satisfy the agency’s goal of providing important, accurate information for those who might seek our services.

Project 7: By March 1, 2025, record short how-to instructional video on filing petitions with the agency. Although the agency currently has detailed written instructions on filing petitions with us, this project will expand the accessibility and format of those instructions. In doing so, we hope to broaden the ways in which different constituencies and the public are informed about how to receive agency services.

Project 8: By June 1, 2025, complete coding the Keyword List for Board Orders for present orders back to January 1, 2024. The agency is in the process of adding a new research tool for Board orders, by creating a Keyword List as an additional way for practitioners to find relevant Board orders. Once that keyword list is completed (the current target date is October 2024), the agency will begin coding existing Board orders with those keywords. The agency will begin with the most current orders and work its way back, with the goal of completing all keyword coding of orders from January 1, 2024 forward by June 1, 2025. Once the agency completes coding those orders, it will continue to code orders as they are released and to code older orders beginning with 2023 and moving backwards. Practitioners currently have the ability to use our State of Oregon Law Library database to search dynamically for Board orders. This additional Keyword research tool will provide another way for practitioners and the public to find relevant Board orders. The

¹We resume the numbering from our DEI-specific projects that we have integrated into this plan.

objective of this project is to respond to constituent feedback on enhancing research tools for Board orders. This project also relates to issues raised by the DEI Committee.

Project 9: By July 1, 2025, complete submission of Board Orders to State of Oregon Law Library. The agency recently partnered with the State of Oregon Law Library to provide a robust research tool for searching Board orders. The agency is engaged in an ongoing process of sending batches of Board orders to the Library for uploading into that searchable database. To date, the agency has provided current orders back through 1995. This project will complete the goal of adding all agency orders (which date back to 1973) to the Library for uploading into the database. This project completes a goal of responding to constituent feedback for easier and more dynamic searchability of Board orders. This project also relates to issues raised by the DEI Committee.

Project 10: By August 1, 2025, complete a Representation Case Q&A Guide. The agency already publishes a Q&A Guide for State Personnel Relations Law appeals and for Unfair Labor Practice Complaints. Those user guides have received great feedback from primary constituents and the public. Completing a guide for representation cases will provide an additional resource for assisting those who wish to file representation petitions. This is a particularly important guide, as these petitions are often filed by non-attorneys.

Project 11: By September 1, 2025, update the agency's ULP Q&A Guide by and update by July 1 each following year. Like our other user guides and digests, we need to ensure that this important resource is up to date (and kept up to date) to reflect any changes in statutes, regulations, or Board case law.

Project 11: By October 1, 2025, record short how-to instructional video on new library of searchable Board orders. Like the how-to video mentioned above, this project will expand the accessibility and format of how to use the State of Oregon Law library to dynamically search Board orders. In completing this project, we hope to enhance the understand of how to use this valuable new research tool.

Project 12: By June 1, 2026, conduct Conciliation Services training outreach (with legislatively-approved funding for additional mediator). The agency has included a Policy Option Package in its 2025-2027 budget for funding for a new mediator position. If that funding is approved, the agency will be equipped to expand its training program. This project will promote and make constituents aware of new training opportunities available to them and reinforce the value of that training in achieving more cooperative and harmonious labor relations.

Project 13: By December 31, 2026, complete the State Personnel Relations Law Digest for the years 2022-2026. This digest is an important tool for both attorneys and non-attorneys who might have questions or would like to research Board case law on State Personnel Relations Law appeals. This update will ensure that this resource has the most current information.

Project 14: Annually participate in at least 3 additional outreach events. The agency attempts to regularly participate in outreach events to our constituents. That outreach includes accepting invitations to appear and speak at conferences, meetings, and classroom events. This outreach is an important way for the agency to both gain feedback from our constituents, as well as to provide information about ongoing developments, projects, and services at the agency. The agency has identified certain outreach events above related to its DEI Plan. In addition to those events, the agency will minimally attend (or host) 3 additional outreach events to ensure ongoing relationships with constituents.

CONCLUSION

This 2025 Action Plan is focused on ensuring that the agency is best fulfilling its mission. To that end, the agency has identified numerous key goals and objectives aimed at fulfilling that mission, while reflecting core agency values. The agency recognizes that these goals and projects were developed at a particular moment, and that changes in the agency's environment may necessitate adding additional goals to reflect those changes. Although our goals and projects are ambitious, we are committed to meeting them, while also undertaking any new challenges as they arise.