

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

For ERB Use Only

File your complaint (with any attachments) and pay the \$300 filing fee on our online [Case Management System-CMS](#). Alternative filing options detailed in the instructions.

Case No. FR-003-23

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 the \$300 filing fee, or make arrangements with an ERB staff member for in-person delivery. Your filing is not complete until the \$300 is paid. There is an additional \$25 fee to file a document by fax.

Date Filed 11/29/23

1. COMPLAINANT
Name, address, phone number, and email address.
Zachary Lincoln
[REDACTED]

2. COMPLAINANT'S REPRESENTATIVE
Name, address, phone number, and email address.
Pro Se

3. RESPONDENT LABOR ORGANIZATION
Name, address, phone number, and email address.
Sweet Home Professional Firefighters IAFF Local
Josh Bondesen - President
1099 Long Street. Sweet Home, OR 97386

4. LABOR ORGANIZATION'S REPRESENTATIVE
Name, address, phone number, and email address.
unkown

5. RESPONDENT EMPLOYER
Name, address, phone number, and email address.
Sweet Home Fire & Ambulance District
Mark "Nick" Tyler - Fire Chief
1099 Long Street. Sweet Home OR 97386

6. EMPLOYER'S REPRESENTATIVE
Name, address, phone number, and email address.
unkown

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 243.806.

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

Complainant

Title

11/29/2023

Date

Statement of Facts

The Complainant, Zachary Lincoln was employed for the Sweet Home Fire & Ambulance District (hereafter "District") and member by the Sweet Home Professional Firefighters Association local #4436. (hereafter "Union"). Mr. Lincoln was employed by the sweet home fire district and represented by the union sense

Timeline of Events

1. December 1, 2011 Mr. Lincoln was hired full-time as a Firefighter/Paramedic with the district and became a member of the union
2. May 18, 2012 A fellow lieutenant and union member gave Mr. Lincoln a modified HIV test as a part of a prank which suggested he had contracted HIV. The document was placed on Mr. Lincoln's dresser so he woke up to the modified test results and left the fire station. It wasn't until Mr. Lincoln returned to complete paperwork regarding the initial needle stick that caused Mr. Lincoln had blood drawn that he learned that it was part of a prank . Lieutenant. J. H. was disciplined and received two weeks off without pay.
3. December 1, 2013 Mr. Lincoln was promoted to Lieutenant promoted to lieutenant paramedic with the fire district
4. June 2020 to May 2021 Mr. Lincoln started to notice the fire chief Dave Barringer, began targeting Mr. Lincoln and scrutinizing his work more so than any other employee
5. May 1, 2021 after Mr. Lincoln had made multiple attempts to reconcile concerns with Mr Barringer. Mr. Lincoln contacted the districts EAP program for advice regarding the change in treatment by the fire chief the counselor advised Mr. Lincoln to contact union representation for assistance.
6. May 3, 2021 Mr. Lincoln contacted the union president Joshua Bondesen regarding his concerns. Mr. Bondesen did not intervene or suggest any sort of union action.
7. May 19th, 2021 Mr. Lincoln received an email from the fire chief Barringer that he would be changing shifts for the three lieutenants. Mr. Lincoln believes this is a continued pattern of adverse employment action by the fire chief.
8. May 20, 2021 Mr. Lincoln requested a meeting between the fire chief and the board president to discuss these concerns as he had been unsuccessful in attempting to resolve these.
9. June 2, 2021 Mr. Lincoln met with the fire chief and the board president to discuss these concerns. The conflict only worsened, including a disagreement in which Mr. Lincoln offered to bring his personal excavation equipment to the fire station to save the district money, and help finish the "dirt work" at no cost to the district that Mr. Barringer was working to finish. Mr. Barringer agreed. Mr. Lincoln spent the next three days while on duty moving the dirt as Mr. Barringer had requested Mr. Barringer at some point during the three days, Mr. Barringer

confronted Mr. Lincoln in the presence of Mr. Bondesen and a volunteer firefighter.

10. June 24, 2021 Mr. Barringer, the Board of Directors president, Dawn Mitchell and Mr. Lincoln met for a second time attempting to resolve the conflict only for the scrutiny to worsen.
11. On August 4, 2021 Mr. Lincoln sent an email to Mr. Barringer, requesting reconsideration of this schedule change that only affected Mr. Lincoln and the other two lieutenants. Mr. Lincoln stated that it was very abnormal for there to be a shift change without a reason such as an injury or vacancy, especially during conflation season season. In fact, Mr. Lincoln was on a conflation assignment at this time. Mr. Lincoln was assigned to the incident management team where he would go to wildfires to assist in setting up communication systems.
12. August 12, 2021 Mr. Lincoln received a reply from Mr. Barringer stating he was unwilling to propose shift changes. Mr. Lincoln replied, expressing his concern for the shift change, including the pattern of retaliation, as well as a concern that this would worsen Mr. Lincoln's anxiety. Mr. Lincoln has been very open about his anxiety which occurred after the 2012 HIV prank shortly after the incident Mr. Lincoln began to experience panic attacks, unsure what the cause was. those attacks only became worse after Mr. Lincoln Responded to multiple child fatalities in 2019, which caused his anxiety to peak in early 2020 Mr. Lincoln was able to receive professional help which eliminated his panic attacks.
13. August 17 after Mr. Lincoln returned home from a conflagration. He emailed board President Dawn Mitchell regarding the concerns of the retaliation shift change.
14. August 28 Mrs. Mitch responded advising she wanted more information for the shift change that was scheduled to occur on September 1, 2021.
15. September 1, 2021 Mr. Lincoln took a vacation out of the country with his wife and friends Take a break, and hopefully reset from the work conflict he was experiencing
16. October 2, 2021 Mr. Lincoln worked his first shift under the new battalion chief, in which he expressed to the chief he felt the shift change was retaliation from the fire chief and Mr. Lincoln requested that he be treated fairly by his new battalion chief.
17. On October 6, 2021 around 6 AM, one hour before shift change Mr. Lincoln felt something in his back while lifting a patient out of his bathtub. Mr. Lincoln had experienced this before as he had tweaked his back the previous year and was better a few days later
18. October 8, 2021 Mr. Lincoln received an email from his new battalion chief. Randy Whitfield expressing concerns that Mr. Lincoln violated some policies by not notifying him first that he intended to use sick leave for the following day on his next shift. Mr. Whitfield also sent a separate email to the entire staff advising them to follow the policy Mr. Lincoln responded, asking clarification as to which policy he was referring to since the numbering referenced a new set of policies the district was reviewing but had not yet implemented. In a meeting on the October 13 Mr. Whitfield and Mr. Lincoln met to discuss the email in which Mr. Whitfield confirmed that he was mistaken and we were not following the policies yet according to the Fire chief Dave Barringer. Mr. Whitfield apologized for his mistake.

19. On January 5, 2022 the fire chief organized a staff meeting and one of the staff members asked if we are following the new lexipol policies. Mr. Barringer stated that we have not converted to following the new policies yet but we are working towards it. Mr. Lincoln asked if there could be a deadline set so we knew when the new policies would be implemented, but Mr. Barringer denied that request, Mr. Barringer stated that he intended on assigning the battalion chiefs to meet and to work to get the policies implemented Mr. Lincoln asked if someone who wasn't a battalion chief had concerns or suggestions how would they go about those communicating those ideas. Mr. Barringer stated that he would expect the chief to ask input from their subordinates before they made any decisions at no point following that meeting was there any further implementation of those policies.
20. March 17, 2022. Chief Dave Barringer sent an email to Mr. Whitfield, Mr. Lincoln, Firefighter/Paramedic Josh Starha, thank us for fixing the fire pump on the primary fire apparatus that responds to structure fires as two times in the previous two months it had not functioned correctly on a structure fire in which the cruise was not able to pump any water. After the first incident, the apparatus was sent to the dealer's mechanic to troubleshoot the issue, unsuccessfully finding anything wrong. After the second time, Mr. Lincoln, with assistance of Mr. Starha were able to determine the cause and were able to repair the apparatus which prevented it from ever causing an issue again.
21. April 12, 2022 Mr. Lincoln was working as the battalion chief as Mr. Whitfield was on vacation. Mr. Lincoln was notified that the ladder truck was having engine trouble as it returned from some annual tests Mr. Lincoln informed Mr. Barringer of the issue in which Mr. Barringer suggested he contact the mobile mechanic to come and evaluate the apparatus. Mr. Lincoln contacted the mechanic in which he was able to come by quickly and look over the apparatus and run some diagnostics which suggested it needed a new turbo. Prior to lowering the cab back over the engine Mr. Lincoln noticed a boot that allows fresh air to access the engine was damaged, likely causing the trouble. The mechanic agreed however, the mechanic was unavailable to repair that evening, and Mr. Lincoln offered to repair the damaged intake. Mr. Lincoln worked till late in the evening to repair the problem, and as Mr. was watching he mentioned "and they tell me I'm not supposed to let you work on stuff" frustrated Mr. Lincoln because he thought the conflict was improving. The following shift Mr. Lincoln met with Mr. Whitfield asking what was the cause of this statement and Mr. Whitfield confirmed it was coming from Mr. Barringer, this further upset Mr. Lincoln, because he believed the conflict was improving between Mr. Barringer and himself.
22. April 17, 2022 Mr. Lincoln called Travis Hewitt, who is the fire, chief of a neighboring fire department and best friend of Mr. Lincoln to advise him. He was struggling not sure if he would be able to go to work the following day due to anxiety from the conflict. Mr. Hewitt. advised Mr. Lincoln did not go into work and took sick leave. If he was able to Mr. Lincoln said he would think about it and see how he felt in the morning. Mr. Hewitt advised Mr. Lincoln that he should come to his work so we could discuss the new events with Mr. Lincoln.

23. April 18, 2022 Mr. Lincoln was unable to sleep. His anxiety was worse and called in sick and went to Mr. Hewitt's to discuss the new conflict. During that time Mr. Barringer used Active 911, an application used by first responders to receive emergency calls which shows the location of those responding. Mr. Barringer created a test page in order to obtain the location of Mr. Lincoln in which he then went to the Halsey fire station looking for Mr. Lincoln Mr. Hewitt had to leave for a traffic collision on the freeway and shortly thereafter Mr. Lincoln left and on his way home saw Mr. Barringer's department vehicle. Mr. Lincoln believed it was an attempt by Mr. Barringer to discipline him in some way.
24. April 26, 2022 Mr. Hewitt asked Mr. Lincoln met him at the fire station as he needed some help. Mr. Hewitt advise Mr. Lincoln that Mr. Barringer intends to place Mr. Lincoln is on administrative leave the following day once he arrives at work. Mr. Hewitt asked Mr. Lincoln if he wanted to call Mr. Barringer which Mr. Lincoln agreed. Mr. Barringer met at the Halsey fire station. Mr. Lincoln was presented a letter stating he was being placed on administrative leave due to Mr. Barringer's concerns. Mr. Lincoln being fit for duty. Mr. Barringer had to take a phone call and Mr. Hewitt stated to Mr. Lincoln that he believed that this was a opportunity for Mr. Lincoln and Mr. Barringer to have some time apart as Mr. Barringer is retiring and a new chief begins in less than a month. Mr. Hewitt stated this was an opportunity to allow Mr. Lincoln to time and start fresh with the new Chief.
25. May 4, 2022 Mr. Lincoln made an appointment and met with a fire service counselor regarding the conflict as it was suggested during the meeting with Mr. Barringer and Mr. Hewitt.
26. May 9, 2022 Mr. Lincoln received an email from Mr. Barringer that would require Mr. Lincoln endured a day-long psychological stress test before he was able to return to work. This was much different than what was suggested would occur previously.
27. May 10, 2022 I was advised by firefighter Josh Starha that the fire chief Dave Barringer was requesting other employees submit documentation that would support Mr. Barringer placing Mr. Lincoln on leave Mr. advise that he refused to do so, and felt it was inappropriate
28. May 10, 2022 Lincoln contacted the Monroe fire chief Chris Barnes and informed him that Mr. Barringer was requesting others provide him with documentation of Western Lincoln being unfit for duty. Chief Barnes, advise Mr. Lincoln that the Mohawk Valley fire chief Steven Wallace was also asked to provide documentation to Mr. Barringer . Mr. Lincoln contacted Mr. Wallace who confirmed Mr. Barringer requested documentation regarding an incident that occurred on May 19, 2021 in which Mr. Lincoln was present at the Mohawk Valley fire station the day before his quarantine was up.
29. May 14, 2022 Mr. Lincoln submitted a complaint regarding his concerns to BOLI
30. May 15, 2022 Mr. Lincoln sent Mr. Barringer an email expressing concerns that the psyc evaluation was a violation of the contract because it required Mr. Lincoln to seek care from someone who is not a physician
31. On May 18, 2022 Mr. Lincoln requested a union meeting to discuss the incident that had

occurred at which time Mr. Lincoln explained everything including reading the letter he sent to Mr. Barringer three days prior regarding concerns of violations of the contract in regards to medical release. The members were supportive except for union president, Josh Bondesen, who confronted Mr. Lincoln siding with Mr. Barringer and provided information during that meeting that only could be gained by Mr. Bondesen talking with Mr. Barringer. Mr. Bondesen advised that the began the day of "moving dirt" Mr. Lincoln responded advising Mr. Bondesen that started more than a year prior to that in which he had contacted Mr. Bondesen to discuss his concerns after Mr. Bondesen spoke none of the other members or willing to support Mr. Lincoln anymore. Mr. Lincoln also advised the union members that he had submitted complaint to BOLI

32. After Mr. Lincoln had her rumors that the district was going to attempt to terminate him. He filed Workers Comp. claim so that he could ensure in the event he was terminated he would continue to receive the care for his anxiety as result of the 2012 HIV prank.
33. Mr. Lincoln continued to be on administrative leave. He was advised to meet with the fire chief on August 4 at which time he arrived to the fire station in which Mr. Bondesen was present and advised Mr. Lincoln that he had talked with the attorney and advised Mr. Lincoln to tell the truth in the meeting. Mr. Lincoln was unsure what he was referring to and asked Mr. Bondesen what does he mean? What is this meeting about? Mr. Bondesen again refused to answer until, Mr. Lincoln demanded Mr. Bondesen told the lawyer and the new fire chief, Mark Tyler, had told him. Mr. Bonson reluctantly advised it was something to do with an investigation, and some other stuff. Mr. Bondesen was present in the meeting in which Mr. Tyler gave Mr. Lincoln a letter stating that he would be moved to a 40 hour work week and have to call in everyday Monday through Friday at 8 AM. The document revealed that Mr. Lincoln was accused of violating policies and contract violations, including sick leave. At the conclusion of the meeting, Mr. Lincoln walked out with Mr. Bondesen in which Mr. Lincoln stated he disagreed with the document and stated that there investigating him for violating the new policies that aren't even implemented Mr. Bondesen said aren't they the old policies Mr. Lincoln said no they're the new Lexipol policies and Mr. Bondsen said, and we're not even following those yet right? Mr. Lincoln confirm that's what he believed.
34. Mr. Lincoln was told that he would have a meeting with the outside investigator which had never occurred in the district previously even during the HIV prank investigation in 2012 that meeting took place on August 31, 2022 in which Mr. Lincoln was asked if he wanted representation in which he declined. He believed the union president wasn't going to help in any way.
35. In January 2023 the district received the official BOLI complaint from Mr. Lincoln in which three days later on January 18, 2023 Mr. Tyler received report from Mr. Doney three days following Mr. Doney report Policy 103 that was referenced in the letter from Mr. Doney was modified
36. On February 2, 2023 Mr. Lincoln was ordered to pick up my W-2 from the station at which time Mr. Tyler asked if I wanted to talk in which I agreed and he asked me if I would take a settlement

- offer. Mr Lincoln advised him that I wouldn't, because he haven't done anything wrong.
37. February 5, 2023 Mr. Downey sent Mr. Tyler an additional document in which it stated Mr. Lincoln violated HIPAA as well.
 38. On February 7, 2023 Mr. Lincoln was required to meet with Mr. Tyler and Mr. Tyler presented Mr. Lincoln with a notice of potential termination from a response that was required by 13 February
 39. On February 13, 2023 Mr. Lincoln submitted 27 grievances to the fire chief as he believed the district was trying to obtain Mr. Lincoln documentation prior to their required deadline on February 14 to respond to the BOLI complaint.
 40. February 27, 2023 Mr. Lincoln was informed to meet with Mr. Tyler in which he provided Mr. Lincoln a letter denying all 27 grievances, but did not provide the documentation that was requested in the initial grievances. Mr. Lincoln was told the next meeting is on March 2nd
 41. On March 1, 2023 Mr. Lincoln provided the board of Directors a 37 page letter regarding the concerns of conduct by Mr. Tyler and Mr. Barringer
 42. On March 2 2023 Mr Lincoln was told by Mr. Tyler that the meetings been postponed
 43. On March 9, Mr. Lincoln emailed the board president requesting the next step in the grievance process as well as requested a hearing under Oregon civil service laws
 44. On March 17 Mr Lincoln received an email from Nick Tyler stating I was unable to proceed with the agreement process since Mr Lincoln did not have the support of the union.
 45. March 21, 2023, the Board of Directors approved civil service members and proposed rules that would prevent union members from utilizing Oregon civil service law
 46. On March 28th 2023 the district convene their first ever civil service commission meeting in which these new rules that attempted to exempt the district from state civil service laws was approved
 47. 40 on March 29 Mr. Lincoln was offered a settlement or be terminated. Mr. Lincoln advised he would not be signing a settlement and so Mr. Lincoln was provided a letter terminating him immediately.
 48. On April 3, 2023 Mr. Lincoln sent a text message requesting to meet with the union lawyer to discuss the issues.
 49. During a phone call with Mr. Bondesen on April 4 2023. Mr. Lincoln expressed concerns that Mr. Bondesen was not willing to represent him, and requested that a different attorney be used. Mr. Bondesen followed up with a text message unwilling to allow a separate unbiased attorney to represent Lincoln and the union in this grievance.
 50. Mr. Lincoln sent Mr. Bondeson sent an email on April 5 2023 expressing his concerns for not allowing a separate unbiased counsel to represent him in the matter.
 51. April 6, 2023 Mr. Bondesen, filed the grievance on
 52. June 1 2023 Mr. Lincoln met with the grievance committee
 53. June 2, 2023 Mr. Lincoln was notified by the union lawyer that the union would not be pursuing grievance through arbitration.