

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-027-25

(UNFAIR LABOR PRACTICE)

SPRINGFIELD EDUCATION ASSOCIATION,	)	
	)	
Complainant,	)	
	)	
v.	)	RULINGS,
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
SPRINGFIELD SCHOOL DISTRICT #19,	)	AND ORDER
	)	
Respondent.	)	

Evianna Colvin, Attorney at Law, Tedesco Law Group, Portland, Oregon, represented Complainant.

Rebekah R. Jacobson, Attorney at Law, Garrett Hemann Robertson P.C., Salem, Oregon, represented Respondent.

On June 11, 2026, Administrative Law Judge (ALJ) Jennifer D. Kaufman issued a recommended order in this matter. The parties had 14 days from the date of service of the order to file objections. OAR 115-010-0090(1). No objections were filed, which means that the Board adopts the attached recommended order as the final order in the matter. OAR 115-010-0090(4).

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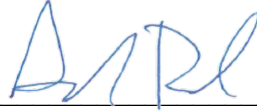
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ORDER

The District shall cease and desist from failing to comply with ORS 243.804(1)(c)(A), in violation of ORS 243.672(1)(f), by restricting the Association's reasonable access to bargaining unit employees during their preparation periods.

DATED: July 9, 2026.



Adam L. Rhynard, Chair



Shirin Khosravi, Member



Benjamin O'Glasser, Member

This Order may be appealed pursuant to ORS 183.482.

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-027-25

(UNFAIR LABOR PRACTICE)

SPRINGFIELD EDUCATION ASSOCIATION,	)	
	)	
Complainant,	)	
	)	RECOMMENDED RULINGS,
v.	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
SPRINGFIELD SCHOOLD DISTRICT #19,	)	AND PROPOSED ORDER
	)	
Respondent.	)	
	)	
	)	
	)	

A hearing was held before Administrative Law Judge (ALJ) Jennifer D. Kaufman on October 29, 2025, via videoconference. The record closed on December 19, 2025, following receipt of the parties' post-hearing briefs.

Evianna Colvin, Attorney at Law, Tedesco Law Group, Portland, Oregon, represented Complainant.

Rebekah R. Jacobson, Attorney at Law, Garrett Hemann Robertson P.C., Salem, Oregon, represented Respondent.

On May 30, 2025, Springfield Education Association (the Association) filed an unfair labor practice complaint against Springfield School District #19 (the District). The District filed a timely answer.

The issues are:

1. Did the District prohibit the Association from accessing bargaining unit employees during their preparation time, and restrict such meetings to the time before or after the employees' regular work hours, during meal periods, and during other breaks, and thereby:
 - a. Interfere with, restrain, or coerce employees in or because of the exercise of PECBA-protected rights, in violation of ORS 243.672(1)(a)?

- b. Interfere with the existence or administration of the Association, in violation of ORS 243.672(1)(b)?
 - c. Refuse to comply with ORS 243.804(1)(c)(A), in violation of ORS 243.672(1)(f)?
2. Should the District be required to pay a civil penalty pursuant to ORS 243.676(4)?
3. Should the District be required to post a notice of any violations found?

We conclude that the District failed to comply with ORS 243.804(1)(c)(A) and thereby violated ORS 243.672(1)(f). We find it unnecessary to address allegations that the District's conduct also violated ORS 243.672(1)(a) and (b). We conclude that a notice posting and a civil penalty are not warranted.

RULINGS

1. The rulings of the ALJ were reviewed and are correct.¹

FINDINGS OF FACT

The Parties

1. The District, a public school district located in Springfield, Oregon, is a public employer as defined in ORS 243.650(20).
2. The District's Director of Human Resources is Dustin Reese. Reese has been the District's HR Director since 2018.
3. Daniel Pestle is an Assistant Principal at Thurston High School. Pestle served as the Interim Principal at the Academy of Arts and Academics,² a magnet high school within the District, during April and May 2025.
4. The Association is a labor organization as defined in ORS 243.650(13). The Association represents a bargaining unit of licensed District employees including educators.
5. Jonathan Gault has been the Association President since 2020. Before he became the President, Gault served as a building representative for the Association. Gault spends 80 percent of his work time on Association matters and 20 percent of his work time as a substitute teacher for the District.

¹Complainant's Exhibits C-1 through C-3, and C-6 through C-13; Respondent's Exhibits D-1 through D-7; and Joint Exhibits 1-3 were admitted into the hearing record. Complainant's Exhibits C-4 and C-5 were withdrawn.

²The parties commonly refer to the Academy of Arts and Academics as "A3."

6. The Association is affiliated with the Oregon Education Association (OEA). Peter Swinford is an OEA UniServ Consultant who represents a group of local unions known as the “Three Rivers Education Council.” Since February 2025, Swinford has been supporting the Association with matters including grievances and contract negotiations.

7. The most recent collective bargaining agreement between the parties was effective by its terms from July 1, 2022, through June 30, 2025. The parties entered successor contract negotiations in April 2025. The parties were still engaged in successor bargaining as of the October 2025 hearing in this matter.

Engage Visits

8. OEA and Association representatives periodically have brief, one-on-one meetings with members referred to as “Engage Visits.” Engage Visits are drop-in conversations designed to request feedback from members and identify workplace issues. When OEA representatives conduct Engage Visits at school sites, they are typically accompanied by local union representatives.

9. The number of OEA and local union representatives who arrive to conduct Engage Visits at a school site varies depending on the size of the school. The standard practice when arriving at a school to conduct Engage Visits is for the representatives to sign in at the building’s front office and request the building schedule. Representatives then determine when member educators are scheduled for their preparation periods and divide the members among themselves with a general goal of speaking to 85 percent of the members at the school over the course of the day. The meetings typically last about five minutes each.

10. OEA UniServ Consultant Swinford has been conducting Engage Visits on behalf of OEA since 2016. During those meetings, Swinford speaks with members about matters including potential grievances, contract negotiations, student behavioral issues, classroom sizes, and challenges that educators face obtaining contractually-bargained preparation periods and duty-free lunch breaks. Swinford typically distributes questionnaires to members asking what has worked well in their school or district, what challenges they face as an educator, and which of their colleagues are trusted and respected.

11. Association President Gault participated in Engage Visits in either 2015 or 2016 and in 2018, when he was a building representative. During the Engage Visits, Gault met with members during their scheduled preparation periods and asked the members questions including what was working well for them as educators, what issues they might need help with, and who in their building they trusted and respected. Other subjects that Gault discussed with members during Engage Visits were class size, the need for additional preparation time, difficulties that educators had being able to take duty-free lunch breaks, building maintenance issues, and contract negotiations.

12. Swinford and Gault both prefer to meet with educators during their preparation periods because at other times educators may be engaged with students or otherwise inaccessible.

Before and after classes, educators are not centrally located and they are occupied with personal matters. During lunch breaks, some educators prefer solitude, and some educators take their lunch breaks outside of the building. Additionally, lunch breaks only last 30 minutes, which may not provide enough time for OEA and Association representatives to contact a majority of the members at a school site.

13. OEA and Association representatives can communicate with members remotely using tools such as email surveys, but Swinford and Gault have found that alternative communication channels are not as effective as face-to-face meetings. Although every school site has one or more building representatives who can relay information from members to OEA and Association representatives, building representatives are full-time educators who have limited time to conduct Engage Visits with their colleagues. Additionally, not all members are comfortable speaking with their building representatives about issues at their work site, and may be more forthcoming with an outside representative.

Attempted Engage Visits at Academy of Arts and Academics

14. In April 2025, around the time that the parties commenced successor contract negotiations, OEA UniServ Consultant Swinford and Association President Gault discussed the possibility of conducting Engage Visits with the District. Swinford had not conducted Engage Visits with the District before.

15. On April 18, 2025, Swinford sent an email to HR Director Reese titled, “OEA Engage visit to A3 4/24.” In the email, Swinford explained that he and an OEA field supervisor were hoping to visit staff the following week. Swinford stated in the email, “Typically on these visits, we see staff for 5-10 minutes during their prep period unless, of course, they are too busy to talk. We will be conscious of not disrupting the educational mission. Please let me know if you need any discussion regarding this.” (Exh. J-2 at 5.)

16. Later that day, Reese responded to Swinford and asked, “Can you help me understand the purpose of the meetings? We always [*sic*] to be compliant with HB 2016,³ but typically these meetings happen before or after the employees’ regular work hours, during meal periods an[d] during any other breaks.” (Exh. J-2 at 4.)

17. Swinford responded to Reese with an email in which he stated,

“We just do this to check-in with members of OEA. I have done this in many district[s] over the years. Going into prep time allows us to talk to more members tha[n] we can if it is only a lunch or break time. I get that prep is work time, so we go in and out of rooms relatively fast. You could say ‘no’ I understand given that prep is work but doing this has worked fine in many buildings or various districts in OEA.”

(Exh. J-2 at 4.)

³As explained more fully below, “HB 2016” is a reference to House Bill 2016.

18. At the time of the requested visit, there were no pending grievances or active workplace complaints at the Academy of Arts and Academics. The date of the requested visit coincided with the date of the parties' next contract bargaining session.⁴

19. Reese responded to Swinford with an email in which he stated, in pertinent part,

"We have had an understanding in [the District] since before my time here that [Association and OEA] visits to the buildings would not take place during prep time. We believe in the importance of [A]ssociation time with members, but there are clearly articulated timeframes within the day that these visits should take place and we want to ensure that our teachers are not missing out on any prep time that they are getting."

(Exh. J-2 at 3.) Reese concluded his email by stating that he would inform the building administrator at the Academy of Arts and Academics that Swinford was planning to visit on April 24, 2025.

20. On April 21, 2025, Swinford responded to Reese's email and requested clarification whether Reese was opposed to allowing the visits to take place during preparation time. Swinford stated in his email,

"We understand that this approach does cost staff a bit of their prep time. We approach each member with respect for that, and if people are too busy we move on. In all of the Engage [V]isits that I have personally participated in with OEA, I can say that I have never seen a member become upset with our visits nor have I heard from any administrator that we were disruptive in any fashion.

If in the past, [the Association] has not utilized their full rights to meet with members, that obviously would not dilute current rights based on HB 2016."

(Exh. J-2 at 2.)

21. Later that day, Reese responded to Swinford in an email in which he stated,

"OEA is free to meet with staff before/after school, during lunch time or during breaks in accordance with HB 2016. Prep time is work time and should not be interrupted. I appreciate your experiences and I will share that administrators in our

⁴OEA UniServ Consultant Swinford and President Gault both testified that the requested Engage Visits were necessary to solicit feedback from members regarding the District's bargaining proposals, including a proposal regarding the increase in the length of the teacher workday. There is no record evidence, however, that the Association advanced that explanation as a reason for the visits before the hearing in this matter. Swinford testified that he was purposefully vague regarding the reason for the visits because he was concerned that it would have a chilling effect if members knew that he was divulging the subjects of their discussions to District administration. For the reasons discussed in our analysis below, we find it immaterial whether the Association specifically intended to discuss bargaining proposals with its members when it made the request on April 18, 2025, to conduct Engage Visits.

District have shared the disruptions caused by [the Association] visiting outside of the times in which those visits are meant to occur.”

(Exh. J-2 at 1.)

22. Swinford responded that OEA did not agree that HB 2016 limits meetings to break and lunch periods. Swinford also wrote, “I also understand from what you wrote below that [Association and District] past practice was to not visit during prep time, so what is the source of past administrator complaints about [Association] disruption?” (Exh. J-2 at 1.) Reese did not respond to Swinford’s request for information about the alleged past disruptions.⁵

23. The District’s past practice has been to allow Association representatives to schedule meetings with staff before and after school, during their break periods, and after staff meetings. The District has also allowed Association representatives to schedule meetings with staff during their preparation periods for specific purposes, such as discussing a grievance.

24. Swinford’s email of April 18, 2025, was the first time that Reese received a request to allow OEA or Association representatives building access to conduct Engage Visits. Reese had never heard of Engage Visits before he received Swinford’s email that day. Reese conducted an internet search to obtain information about the nature of Swinford’s requested meetings and found an article on OEA’s website that characterized Engage Visits as one-to-one meetings designed to learn about members experiences as educators and to discover who they respect and trust as colleagues.

25. Based on the information that Reese read on the OEA website and the explanation that Swinford provided in his email of April 18, 2025, Reese determined that Swinford did not have a specific purpose involving a labor relations matter for the requested meetings at Academy of Arts and Academics. Reese believed that under HB 2016, the District was not required to permit

⁵There is no record evidence that HR Director Reese ever discussed the alleged disruptions with a representative of the Association. Reese testified that during the District’s monthly administrator meetings, there have been comments made that it can be disruptive to have Association representatives wandering the halls of school buildings, particularly when the representatives do not work in the building and are not known by staff and students. We find Reese’s testimony, which was unsupported by specific details, insufficient to establish that there have been disruptions caused by Association representatives visiting members at school sites.

Similarly, three District administrators (Interim Principal Pestle; Megan Knight, an elementary school principal; and Brandi Starck, a middle school principal) testified that it would be too disruptive to allow OEA and Association representatives to move about the hallways during classroom time to visit teachers during their preparation periods, which are staggered at different times throughout the school day. Starck also testified that students tend to be concerned when they see adults they do not know in the building. None of those three witnesses specifically testified regarding Engage Visits, and none testified regarding any specific instance in which a disruption was caused by an OEA or Association representative meeting with a teacher during their preparation period. Consequently, we find that testimony too speculative to support a determination that allowing OEA and Association representatives to meet with teachers during their preparation periods would be inherently disruptive of the District’s operations.

OEA or Association representatives to meet with employees during their preparation periods unless they had a specific labor relations matter to discuss with employees, such as a grievance or collective bargaining.

26. Between April 18 and April 24, 2025, Reese notified Interim Principal Pestle that Swinford planned to visit staff at the Academy of Arts and Academics on April 24, 2025. Reese told Pestle that the meetings should not take place during staff members' preparation periods, but that the meetings could take place before school, after school, and during break times.

27. On the morning of April 24, 2025, shortly before 11:00 a.m., Swinford and Gault arrived at the Academy of Arts and Academics to meet with members. Swinford and Gault entered the building and checked in at the front office, and Pestle directed them to the staff lounge.⁶ After contacting Reese for guidance, Pestle told Swinford and Gault that they could meet with members in the staff lounge during their scheduled breaks, including during the lunch period that was about to begin, but that they could not meet with staff during their preparation periods.

28. After speaking with Pestle, Swinford exited the building. At 10:59 a.m., Swinford sent a text message to Reese in which he stated, "We want to exercise our right to see members during their prep. [Pestle] has stated your position that we cannot do that. Is that still your position or has something changed since our last emails?" (Exh. J-3 at 1.)

29. At 11:05 a.m., Reese sent a text message to Swinford and Gault in which he stated, "I have shared via email already the expectations outlined in HB 2016. Those expectations have not changed." Swinford responded that because the parties were "at loggerheads," the Association would file an unfair labor practice complaint. (Exh. J-3 at 2).

30. After Swinford left the building, Gault remained in the staff lounge. Gault met with approximately 10 educators during their lunch breaks, and left the building at about 12:30 or 1:00 p.m.

CONCLUSIONS OF LAW

1. This Board has jurisdiction over the parties and the subject matter of this dispute.

2. The District violated ORS 243.672(1)(f) by not complying with ORS 243.804(1)(c)(A) when it restricted access to bargaining unit employees.

This case presents an issue of first impression regarding the application of ORS 243.804(1), which provides exclusive representatives with a right of reasonable access to bargaining unit employees. ORS 243.804(1)(a) provides, "A public employer shall provide an exclusive representative of an appropriate bargaining unit reasonable access to employees within the bargaining unit." ORS 243.804(1)(c) provides,

⁶The record contains conflicting testimony whether OEA UniServ Consultant Swinford and President Gault requested copies of staff schedules from Interim Principal Pestle. We find it unnecessary to resolve that evidentiary conflict, which does not impact our analysis.

“(c)For purposes of employees in the bargaining unit who are not new employees, reasonable access includes, but is not limited to:

“(A) The right to meet with employees during the employees’ regular work hours at the employees’ regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations; and

“(B) The right to conduct meetings at the employees’ regular work location before or after the employees’ regular work hours, during meal periods and during any other break periods.”

The Association contends that its request to meet with educators during their preparation periods falls within the access rights provided under ORS 243.804(1)(c)(A), while the District contends that the access rights provided under that subsection of the statute are limited to situations where a labor organization representative has a specific labor relations matter to discuss with represented employees, such as a grievance. In the District’s view, the Association’s request to conduct Engage Visits amounted to a request to engage in union organizing or general member engagement during paid work time. The District argues that such requests fall under ORS 243.804(1)(c)(B).

To determine whether the Association’s request to conduct Engage Visits with member educators during their preparation periods falls within the scope of ORS 243.804(1)(C)(A), we must interpret the statute. When this Board interprets and applies statutes, our goal is to determine and give effect to the legislature’s intent. ORS 174.020. *See also Comcast Corp. v. Dep’t of Revenue*, 356 Or 282, 295-97, 337 P3d 768 (2014) (citing *PGE v. Bureau of Labor and Industries*, 317 Or 606, 610, 859 P2d 1143 (1993) (“Our goal in interpreting a statute is to determine what meaning the legislature intended in drafting the statute.”)). In doing so, we apply the analysis supplied by *PGE*, 317 Or 606, as modified by *State v. Gaines*, 346 Or 160, 206 P3d 1042 (2009). Because the words chosen by the legislature are the best evidence of its intent, we first review the text and context of the statute in question. *Gaines*, 346 Or at 171-72. We then review any relevant legislative history. *Id.* If we are still unable to determine the legislature’s intent, we then apply maxims of statutory construction. *Id.*

We begin with the context of the statute. ORS 243.804 is part of the Public Employee Collective Bargaining Act (PECBA), which governs public-sector collective bargaining in Oregon. ORS 243.804 was enacted in 2019 pursuant to the PECBA amendments that were passed by the Oregon Legislature in House Bill (“HB”) 2016. HB 2016 was a legislative response to the decision of the Supreme Court of the United States in *Janus v. AFSCME, Council 31*, 585 US 878, 138 S Ct 2448 (2018).⁷ In *Janus*, the Court ruled that it was unconstitutional for a public employee to have any agency fee or any other payment to a union deducted from the employee's wages, unless the employee affirmatively consented to that deduction or payment. Key provisions of HB 2016 include the establishment of procedures for public employees to authorize dues deductions, the requirement that public employers provide reasonable paid time for designated union

⁷*See Alexander v. Amalgamated Transit Union, Division 757*, Case No. UP-022-20 at 19 (2021).

representatives to engage in union activities, and the requirement that public employers grant union representatives reasonable access to bargaining unit employees.

With this context in mind, we turn to the text of the statute. The language at issue here is prefaced by ORS 243.804(1)(c), which states: “For purposes of employees in the bargaining unit who are not new employees, reasonable access *includes, but is not limited to*” the circumstances described under subsections (A) and (B). (Emphasis added.) Given the express language that the rights described in subsections (A) and (B) are not designed to limit reasonable access, we do not read those provisions as a finite list of the circumstances under which a labor organization shall be afforded access to bargaining unit employees. Although the District’s reading of the statute supposes that the right of reasonable access falls under either subsection (A) *or* subsection (B), depending on the purpose of the meeting, subsections (A) and (B) are connected by the word “and,” not by the word “or.” Consequently, we are skeptical that a reading of the text that limits a labor organization’s access to bargaining unit employees is a correct reading of the statute.

We turn next to the language of ORS 243.804(1)(c)(A), which provides that reasonable access includes “[t]he right to meet with employees during the employees’ regular work hours at the employees’ regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations.” The term “employment relations” is not defined within the text of ORS 243.804. However, the term “employment relations” as used within the PECBA is defined at ORS 243.650(7)(a), which provides that employment relations “includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, labor organization access to and communication with represented employees, grievance procedures and other conditions of employment.” ORS 243.650(7)(e)(A) further provides that within the context of school district bargaining, “employment relations” includes class size.

We now consider whether the Association’s request to meet with educators during their preparation periods is encompassed within the language of ORS 243.804(1)(c)(A). The Association contends that the purpose of the requested meetings was to discuss workplace concerns including pending contract bargaining proposals. The District urges us to discount the Association’s attempt to recharacterize the purpose of the Engage Visits as discussions related to successor bargaining, a characterization that the District contends is unsupported by the record. We agree that there is insufficient record evidence to support the conclusion that Swinford and Gault specifically intended to discuss bargaining proposals with members during the requested Engage Visits. For the reasons explained below, however, that determination does not impact our analysis.

In the circumstances presented here, where the Association requested to access member educators for the purpose of asking about their workplace experiences, the line between accessing employees for the purpose of organizing or general engagement, and accessing employees “to discuss grievances, workplace-related complaints, and other matters relating to employment relations” does not appear to be as distinct as the District argues. We are hard pressed to conclude that the Association’s goal of having one-on-one conversations with members to ask open-ended questions about their workplace experiences falls outside the scope of “matters relating to employment relations.” Indeed, the record establishes that during previous Engage Visits,

Swinford and Gault have discussed subjects with members including potential grievances, difficulty obtaining preparation periods and lunch breaks, and classroom sizes – all subjects which fall squarely within the definition of employment relations under ORS 243.650(7)(a) and (e).

Furthermore, the District’s interpretation of the statute is problematic because it would require labor representatives to disclose the subjects of their intended communications with bargaining unit employees to their employers before they could be granted access to employees. Such a requirement would have a reasonable tendency to deter employees from discussing potentially sensitive or confidential matters (such as disciplinary issues or potential grievances) with labor representatives, and would chill employees in the exercise of the rights they are guaranteed under ORS 243.662 to “participate in the activities of labor organizations *** for the purpose of representation and collective bargaining with their employer on matters concerning employment relations.” We find the District’s reading of the statute to be inconsistent with the purposes of the PECBA. Consequently, we reject the District’s interpretation.

We conclude that a plain reading of ORS 243.804(1)(c)(A) does not support the District’s position that the Association’s request to meet with educators during their preparation period fell outside the scope of subsection (A). Because the statute is clear, we find it unnecessary to turn to the legislative history. Even if we found it necessary to do so, however, the District has cited no legislative history in support of its interpretation of ORS 243.804(1)(c)(A) and (B), and we have found none.

The District also argues that its interpretation of the statute is correct because the District has legitimate concerns that allowing OEA and Association representatives to meet with educators in school buildings during instructional time would be disruptive to classroom time. The statute addresses such concerns at ORS 243.804(3)(a), which states, “An exclusive representative may hold the meetings described under subsection (1) of this section at a time and place set by the exclusive representative, provided that the meetings do not interfere with the employer’s operations.” Although District administrators provided speculative testimony that it would be disruptive if OEA and Association representatives were moving through the hallways of school buildings throughout the day, the record contains no detailed, specific evidence to support the conclusion that allowing OEA and Association representatives to meet with educators during their preparation periods would disrupt classroom time. Consequently, we find that the District’s stated concerns do not support the action it took in this case. We do not foreclose the possibility that a school district could impose some limits on building access during classroom time without running afoul of ORS 243.804(1)(c)(A), under different circumstances.

In summary, we conclude that the District failed to comply with ORS 243.804(1)(c)(A) when it restricted the Association’s access to bargaining unit employees during their preparation periods. Consequently, the District violated ORS 243.672(1)(f), which makes it an unfair labor practice for a public employer to “[r]efuse or fail to comply with any provision of ORS 243.650 to 243.809.”

We decline to analyze whether the District’s conduct also violated ORS 243.672(1)(a) and (b) because, under the circumstances of this case, doing so would not impact the remedy. *See*

Multnomah County Corrections Deputy Association v. Multnomah County Sheriff's Office, Case No. UP-049-24 at 2, fn. 3 (2026).

3. Remedy

We find that the District violated ORS 243.672(1)(f), and we order the District to cease and desist from the unfair labor practice conduct. ORS 243.676(2)(b). We may also order affirmative action necessary to effectuate the PECBA. ORS 243.676(2)(c).

The Association requests that we direct the District to post a notice of its violations. We will order an employer to post an official notice when its unlawful actions: (1) were calculated or flagrant; (2) were part of a continuing course of illegal conduct; (3) were perpetuated by a significant number of the employer's personnel; (4) affected a significant number of bargaining unit members; (5) significantly or potentially impacted the functioning of the exclusive representative; or (6) involved a strike, lockout, or discharge. Not all of those criteria need to be satisfied for us to order a posting. *Oregon Trail School District No. 46*, UP-32-05 at 53, 22 PECBR at 157 (2007) (citing *Blue Mountain Faculty Association/Oregon Education Association/NEA and Lamiman v. Blue Mountain Community College*, Case No. UP-22-05 at 110, 21 PECBR 673, 782 (2007)). Here, the District was presented with an issue of first impression for its administrators and for this Board. Although we disagree with the District's interpretation of ORS 243.804(1)(c), there is no evidence that the District acted in bad faith by interpreting the statute in the manner it did, or that the District's actions were calculated or flagrant. Consequently, we do not find that a notice posting is warranted.

The Association also requests that we award a civil penalty. PECBA authorizes us to consider awarding a civil penalty when the party committing an unfair labor practice did so repetitively, knowing that the action taken was an unfair labor practice and took such action disregarding that knowledge; or that the action constituting an unfair labor practice was egregious. See ORS 243.676(4). We have found that conduct is "egregious" where it is "conspicuously bad" and "flagrant." *Lincoln County Education Association v. Lincoln County School District*, Case No. UP-56-04 at 18, 21 PECBR 206, 223 (2005). We decline to award a civil penalty here, for the same reasons that we decline to order a notice posting.

PROPOSED ORDER

1. The District shall cease and desist from failing to comply with ORS 243.804(1)(c)(A), in violation of ORS 243.672(1)(f), by restricting the Association's reasonable access to bargaining unit employees during their preparation periods.

DATED: June 11, 2026



Jennifer D. Kaufman
Administrative Law Judge

NOTE: The Employment Relations Board's rules provide that the parties shall have 14 days from the date of service of a recommended order to file specific written objections with this Board. (The "date of filing objections" means the

date that objections are received by the Board; “the date of service” of a recommended order means the date that the Board sends or personally serves the recommended order on the parties.) If one party has filed timely objections, but the other party has not, the party that has not objected may file cross-objections within seven days of the service of the objections. Upon good cause shown, the Board may extend the time for filing objections and cross-objections. Objections and cross-objections must be simultaneously served on all parties of record in the case and proof of such service must be filed with this Board. Objections and cross-objections may be filed by uploading a PDF of the filing through the agency’s Case Management System (preferred), which may be accessed at <https://apps.oregon.gov/erb/cms/auth>. Objections and cross-objections may also be filed by email by attaching the filing as a PDF and sending it to ERB.Filings@ERB.Oregon.gov. Objections and cross-objections may also be mailed, faxed, or hand-delivered to the Board. Objections and cross-objections that fail to comply with these requirements shall be deemed invalid and disregarded by the Board in making a final determination in the case. (*See* Board Rules 115-010-0010(10) and (11); 115-010-0090; 115-035-0040; and 115-070-0055.)