EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-36-05

(UNFAIR LABOR PRACTICE)

PORTLAND STATE UNIVERSITY CHAPTER OF THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS,	)	
Complainant,	)	RULING AND ORDER ON PROTECTIVE ORDER
v.	)	
PORTLAND STATE UNIVERSITY,	)	
Respondent.	)	

On March 19, 2008, this Board issued an Order concluding that Portland State University (University) violated ORS 243.672(1)(g) when it refused to process the Lisa Wilson grievances, and ORS 243.672(1)(e) when it refused to provide the Affirmative Action (AA) investigation report on the Lisa Wilson matter to the Portland State University Chapter of the American Association of University Professors (Association). 22 PECBR 302. On May 15, 2008, the University filed a petition for judicial review of the Order. On June 3, 2008, it filed a motion requesting this Board to stay enforcement of the Order pending appeal.

On July 25, 2008, this Board denied the University's motion to stay and instructed the parties to negotiate the terms of a protective order limiting access to the AA investigation materials. Should the parties fail to agree, each party would submit a proposed order to this Board and we would select one.

The parties were unable to fully agree to the terms of a protective order. Both parties submitted their proposals and rationale to this Board on August 15, 2008.

The parties' proposed protective orders are substantially the same with a couple of exceptions. The University proposes to include the following paragraph:

> "ERB will have jurisdiction to enforce this Order. This provision does not waive any civil law cause of action any individual may have independent of this Order based on any distribution of or access to the materials beyond that authorized by this document."

This language is unacceptable. The parties cannot confer jurisdiction on this Board. Jurisdiction is conferred by statute. The University further proposes to extend the protective order to other proceedings that do not involve the grievance. Our concern is with the case before us. If other litigation ensues, the University can seek a protective order in that forum.

The University also proposes that all signatories to the protective order must have their signatures notarized. We are not aware of any authority for such a requirement, nor has the University supplied any.

We adopt the Association's proposed protective order and will order the parties to execute it.

ORDER

Within (7) seven days of the date of this Order, the parties shall execute the Association's proposed protective order.

DATED this 29th day of August 2008.

Paul B. Gamson, Chair

Vickie Cowan, Board Member

Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.