

To: Education Subcommittee of Ways and Means – SB 270A – May 29th 2013

Good morning – my name is Marc Nisenfeld and I am a member of the Service Employees International Union - Local 503. I Chair our Higher Education Council and I hold several other leadership positions within our Union. I work at Portland State University where, as a Development Engineer, I design and build custom apparatus for research scientists and graduate students. I have been at PSU since 1992. SEIU represents more than 4,000 classified workers who support students and faculty in seven universities of the Oregon University System. We work in food and custodial services, facilities and grounds maintenance; financial and academic offices, IT, campus libraries, and many other capacities.

I am here today to offer testimony on SB 270A – pertaining to the establishment of localized institutional boards for public universities. While we are pleased that the bill maintains a single bargaining unit for classified workers, we have several concerns about the bill in its current form. We remain skeptical of the benefits, to the state, by the formation of individual boards, however, we would like to offer some ideas to improve the bill if, in fact, it becomes law.

In April of this year, the Oregon Secretary of State Audits division released an audit they had conducted of the OUS in 2012/2013. Some findings of the audit are.

- From 2001/02 to 2011/12, State funding declined 35% but Tuition and student fees increased 54%
- Educational spending per student declined and student/faculty ratio increased
- OUS could not properly track how much tuition money was being dedicated to education services
- OUS cannot track how many students faculty members teach

These audit highlights coupled with the recent scandal at a hotel owned by Portland State University certainly demonstrates the need for oversight and accountability not a reduction in the same. The full audit can be accessed on the Secretary of State website. For more information on the PSU hotel scandal, I refer you to the attached news articles on the topic.

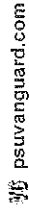
The allegations made by the workers at the hotel are now under investigation by The Civil Rights Division of the Bureau of Labor and Industries.. We pose to you today that none of us can afford autonomy and independence if it means losing the public's trust in our work and your oversight of their resources and tuition dollars. The legislature cannot allow the spinning off of these institutions without accountability - and we ask that you – Oregon's elected legislature - continue in that role going forward.

The second point I want to speak to is the cost that the OUS would incur if these boards were created. In March of 2012 in a presentation to the Governance and Policy Committee of the State Board of Higher Education, OUS Vice Chancellor of Finance and Administration, Jay Kenton, estimated a cost between \$3 and \$8 million dollars per board per year. Those figures were revised downward last month yet still have an estimate of costing between \$1.1 and \$4.5 million per board per year. The lower figure reflects the use of shared services while the higher figure abandons that shared concept. In total, the cost to our system of higher education could be as high \$25 million per biennium, if the three largest universities; PSU, UO, and OSU were permitted to create their own institutional boards. That alone is a lot of money and if all seven universities were to participate in the creation of local boards, that cost would more than double. That is some serious money. We strongly encourage the sharing of services – payroll; insurance; risk management, legal, etc. – as a way to keep costs down and the system intact. Sharing

services will reduce the dependence on general fund and/or tuition dollars necessary to finance these boards.

The third point I'll make is that it feels like we are putting the cart before the horse. Present language proposes a summer 2013 study committee to figure out how to manage and oversee the three regional universities and Oregon Tech. Isn't this in the wrong order? Let's figure out the system of regional governance and system wide shared services and then examine creating local Institutional Boards.

Thank you for your time and consideration. My colleague will comment on other areas of concern to us



Wage fraud, nepotism alleged at University Place Hotel

Coby Hutzler and Ashley Rask

Allegations raise oversight questions, concerns

May 13, 2013 | Coby Hutzler and Ashley Rask

A group of Portland State employees have filed grievances with the university claiming that their bosses stole their tips, demanded kickbacks and practiced nepotism—favoring family members for special treatment and advancement.

Vietnamese housekeepers who work at the PSU-owned University Place Hotel reached out to the labor union that represents them and other service employees on campus, Service Employee International Union Local 89, in March.

The union began an investigation and filed the first of the workers' grievances with PSU's Human Resources Department on April 12. At press time, 30 days had passed with no response from the university, prompting SEIU to "bump up" the complaint to the office of university President Wim Wiewel.

"There's a little sweatshop going on right in the heart of our university," said Marc Nisenfeld, the president of SEIU Local 89. "I would hope that they'd be a little more conscious of what's going on in their own backyard."

University Place General Manager Dennis Burkholder and Housekeeping Supervisor Kim Nguyet Thi Christian were both terminated by PSU on May 7.

"We did determine a loss of trust," said Scott Gallagher, PSU's communications director, of the staffing changes at the hotel. "We thought it'd be best to have a fresh start."

The backstory

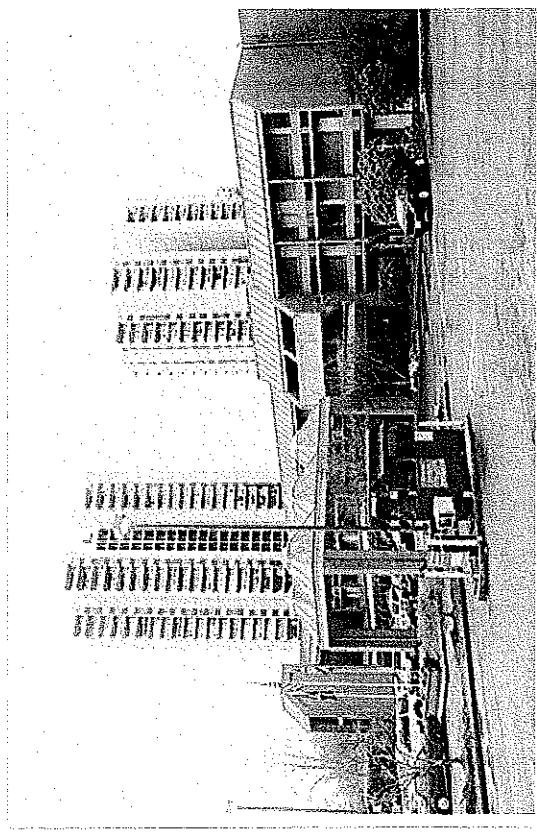
Gallagher said that in late February human resources received an anonymous letter detailing several of these allegations, primarily concerning supervisors at the University Place Hotel.

"[We] immediately put people on administrative leave," Gallagher said.

Gallagher explained that the university's investigation of the nepotism allegations revealed that only one supervisor was found to be related to the people she oversaw; she was consequently demoted.

By March, many of the workers had been waiting for weeks for the university to respond to requests for a translator.

"They got tired of it and came to the union," said Bao Nguyen, an organizer with Service Employees International Union Local 503 and a Vietnamese speaker, adding that the workers' complaints referenced incidents that dated as far back as 2006.



Employees at PSU's University Place Hotel have filed complaints—ranging from nepotism to wage fraud—with the university. The hotel's general manager and house keeping supervisor have been let go. Photo by © Kevin Christopher Burke

The union then filed a series of grievances with the university, some as recently as May 8.

The university interviewed 15 people, including anyone who was mentioned in the grievances. Bao said that he's spoken to at least six people who've been affected; many of them were wary of speaking out for fear of termination.

Gallagher also said that PSU investigated claims of kickbacks, in which workers received manager-approved pay for hours they hadn't worked—pay that was then demanded back by supervisory or managerial staff. Allegations of tip-stealing are also being investigated.

"We were not able to substantiate evidence of kickbacks," Gallagher said.

Nisenfeld, the union chapter president, said that documentation exists to back up the workers' claims. "I have no reason to not believe what we've been told by these workers," he said.

What comes next?

The investigation has raised numerous questions about management practices in other departments at PSU.

"Things are going to happen," Gallagher said. "We handled it the best way that we could."

While most of the housekeeping staff are temporary workers hired under one-year contracts, more of them are joining the union. So far, 15 of the 21 workers have unionized.

Nisenfeld said that he'd like to get these grievances resolved within the next week or two, but admits that it may be some time before that happens.

"If the administration were to cooperate with us," he said, "we'd wind it up a whole lot quicker."

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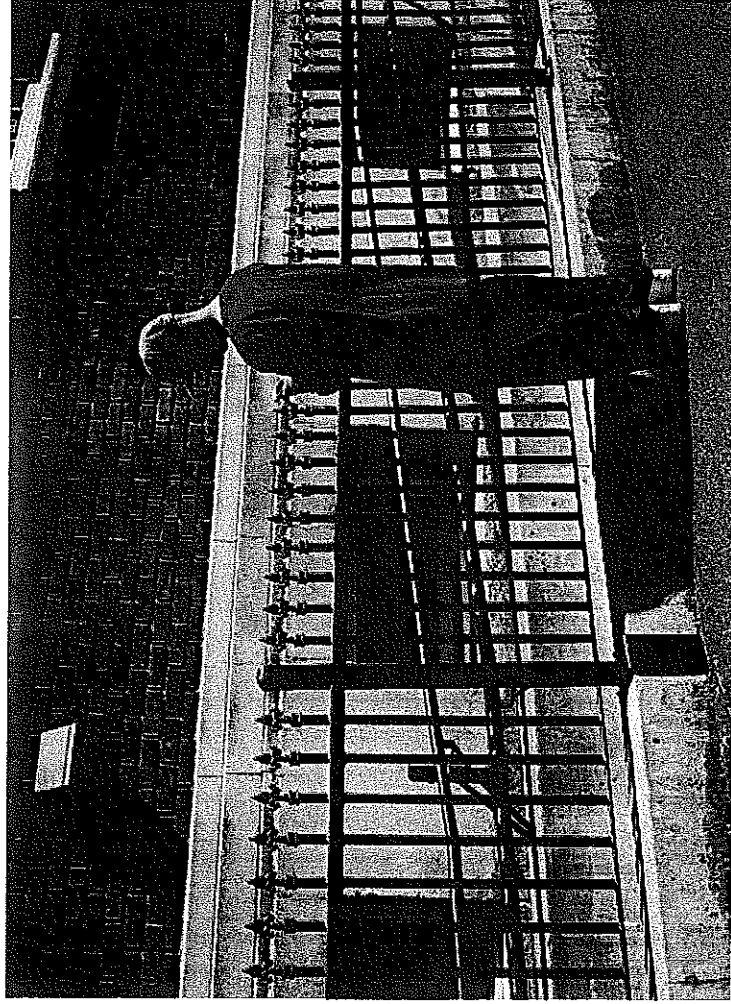
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May 8th, 2013 NIGEL JAQUISS | News

The Overlooked Hotel

Portland State University faces allegations of kickbacks and cronyism at its hotel.



ROOM SERVANTS: Duy Phuong Do says he had to pay kickbacks to a supervisor before he could get hired at University Place Hotel, owned by Portland State University (below). PSU officials say there is no evidence to support his allegation, but university officials fired two hotel managers this week after an investigation. - IMAGE: roniphoto.com

Workers at a downtown hotel owned and operated by Portland State University say they have faced extortion, lost wages to ghost employees and had their tips stolen by supervisors.

The workers tell WW that their bosses—all PSU

employees—have created a culture of cronyism that has allowed them to hire their own relatives to work at the University Place Hotel. One worker says he had to pay kickbacks to his supervisor in order to get hired. And workers say they have been told to clean the university-owned Dunthorpe home of PSU President Wm Wiewel.

“I’ve worked in other places,” Ty Van, 53, a housekeeper at the PSU-owned hotel since 2007, tells *WW* through an interpreter, “but no one has ever treated me like this.”

Like other state universities, PSU is pushing the Legislature for more autonomy. The allegations raise questions about PSU’s ability to manage its own business affairs.

The conditions workers describe are difficult to square with university employment policies, and some practices—such as kickbacks—would be criminal if proved true.

University officials were told of the allegations in March. PSU spokesman Scott Gallagher says officials had interviewed 14 hotel employees, suspended three supervisors and were just wrapping up the investigation when *WW* inquired about the charges this week.

After the newspaper’s inquiries, Gallagher said in an email that the investigation found “no evidence” of extortion or tip stealing, but on May 7, PSU fired the hotel’s general manager and an assistant.

The allegations first came to light after Service Employees International Union Local 89 began representing workers at the hotel earlier this year. SEIU collected statements from workers and reported the allegations to PSU officials in March. Local 89 president Marc Nisenfeld says he’s never heard allegations such as those made by the hotel workers, who earn about \$11 an hour.

“It’s absolutely appalling that what’s alleged could be happening in a public university,” Nisenfeld says.

In 2004, the university purchased the DoubleTree Hotel (formerly known as the Red Lion Inn), located at 310 SW Lincoln St., for \$19.7 million. The purchase of the four-acre site was part of an ambitious growth strategy for PSU, whose student enrollment of 28,731 is larger than that of any other public Oregon university.

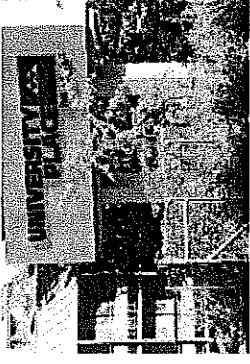


IMAGE: Kurt Armstrong

The original plan called for PSU eventually to demolish the 235-room hotel and replace it with dorms and classrooms, but the recession stalled that development.

PSU officials chose to keep operating the hotel rather than hire an outside company to manage it. The staff, including general manager Dennis Burkholder, became PSU employees.

PSU now advertises its University Place Hotel as “a smart little secret in the midst of downtown Portland.”

But Vietnamese workers responsible for cleaning rooms at the hotel say the real secret is how they were treated by their managers, including their supervisor, who is also a Vietnamese immigrant.

Although some of the housekeeping workers have been in the U.S. for as long as 15 years, they speak limited English and have few job skills.

Still, three of the workers agreed to speak on the record about their experiences working at PSU’s hotel. *WW* interviewed the workers with the assistance of a Vietnamese-speaking SEIU organizer and an independent translator, and reviewed time sheets and other documents.

Many of the allegations focus on Kim Nguyet Thi Christian, the hotel’s housekeeping supervisor, who co-owns a Portland cleaning business and a beach property in Ocean Shores, Wash., with Burkholder, the hotel’s general manager.

Workers say Nguyet demanded a kickback from Duy Phuong Do, 33, who showed *WW* pay records indicating PSU paid him more than \$18,000 in 2008 for work that he says he never performed.

Duy says the work was either done by someone else or not done at all. Duy says Nguyet ordered him to kick the money back to her, holding out the prospect of future shifts as an inducement.

“If I did not allow it, she would not hire me,” Duy tells *WW*. Duy was eventually hired to work at the hotel.

Another hotel housekeeper, Ty Van, backs up Duy’s story. Ty tells *WW* she twice acted as a go-between, collecting \$1,400 in cash from Duy and giving it to Nguyet, who denies the allegation.

"They are liars," Nguyet says. "If she [Ty Van] were here now, I'd knock her down."

Housekeepers also say Nguyet and other workers under her direction stole cash tips for them.

"When the supervisor went into a room, there was never any [tips]," says Ty, who says when she worked previously for six years cleaning rooms at a local Holiday Inn, she'd usually bring home \$10 to \$15 a day in tips.

"I brought it up with [Nguyet]," Ty says. "And she said, 'Tips belong to the supervisor, and you can't question that.'"

Nguyet says neither she nor subordinates stole tips. "It's not true," she says.

The hotel workers also describe a widespread culture of nepotism, which they say starts with Burkholder, 64. On the hotel's website, Burkholder says he's a Vietnam War veteran. The profile says he's returned to Vietnam three times and is "currently researching and writing a novel about the country."

Workers say Nguyet, Burkholder's subordinate and business partner, hired friends and family members and gave them shifts that should have been worked by people already on the payroll, and paid favored employees for work they did not do and regularly assigned easier tasks to friends and family.

Nguyet acknowledges hiring friends and their family members but says complaints about favoritism are untrue.

Workers say one assistant supervisor hired her parents in 2011 and immediately put them on the payroll for 40 hours a week, while reducing veteran workers' hours. They say she also filled out her husband's time sheet for hours he did not work.

Tien Ong, another housekeeper, says Burkholder is ultimately to blame.

"He knows everything," Tien says, "but he does nothing to help us."

Burkholder, who earned \$68,304 as the hotel's general manager, says he never disclosed to PSU owning property or being in business with Nguyet, which he admits was a mistake.

But he says he's dismayed by employee complaints. "I've always been complimented for running a tight ship," he says.

Nisenfeld, president of the union local, says nepotism and cronyism violate university policies. He says bringing in family members discriminates against those already on the payroll, as does selectively handing out work.

Bao Nguyen, an SEIU organizer who frequently works with Asian immigrants, says it's not unusual for immigrants to be preyed upon, but it is unusual on a public payroll.

"I haven't seen anything this egregious before," Bao says. "They are operating their own little fiefdom."

PSU's Gallagher says hotel housekeeping staff cleaned Wiewel's residence twice a week and after PSU events held at the residence. Gallagher says the work is appropriate: The hotel employees work for the university's facilities office, which maintains the president's house.

Nisenfeld says SEIU's contract with the university does not include custodial services for buildings not owned by the hotel.

On March 11, the union informed PSU of the employees' allegations and filed grievances. In an April 25 email to SEIU, Shana Sechrist of PSU's human resources department said the university interviewed employees and "promptly placed the managers alleged to have engaged in wrongdoing on administrative leave."

On the morning of May 7, the day after *WW* contacted PSU about the hotel workers' allegations, PSU fired Nguyet and Burkholder.

"After conducting the investigation, [we] decided to make a fresh start," Gallagher tells *WW*. "[We] will begin a search for their replacements."