

**Erika Randmere, Appeal Tribunal Chair, NHES v. State of New Hampshire & SEA/SEIU Local 1984**, Decision No. 2008-101 (Case No. S-0306-7).

**Background:** A state employee filed an unfair labor practice complaint against the state and the union claiming that they breached the collective bargaining agreement (CBA) by failing to reimburse state employees for excessive agency fee deductions, failing to notify agency fee payers of the basis for the reduction in the amount of the fee deduction, and failing to respond to her grievance. The employee did not contest the union's right to collect an agency fee. Both the state and the union denied the charges and contended that they abided by all contractual, legal, and constitutional requirements concerning the deduction of the agency fee and that the PELRB lacked jurisdiction over the complaint because the matter was properly before an arbitrator. The state also argued that the employee lacked standing to file a grievance under the CBA.

**Decision:** The PELRB found that, although the employee might not enjoy the right to have an arbitrator determine the merits of her grievance because the individual employees could not, on their own, prosecute a grievance to arbitration under step four, she had standing to bring an unfair labor practice complaint because it was the failure of the state to resolve her grievances through the first three steps of the grievance process, which all employees are eligible to pursue on their own, that gave rise to her unfair labor practice complaint. The PELRB also found that it had jurisdiction to hear the employee's complaint because the issues she raised were not subject of the arbitration proceeding. The PELRB held that the employee's request to receive reimbursement for the agency fee overcharge was moot because the union represented to the PELRB that all agency fee payers would be reimbursed for the overcharge by a certain date. The PELRB also held that the union's written notification to some agency fee payers was sufficient to satisfy the employee's request that the state furnish explanation concerning the changes in the agency fee amount and that the state did not have an independent and additional obligation to inform fee payers of the status of fee deductions as this obligation was the responsibility of the union. The PELRB ordered the union to notify, in the future, all agency fee payers via a Hudson notice or equivalent communication and to inform agency fee payers of the relevant facts and circumstances giving rise to the change.

***Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.***