

State Employees' Association of New Hampshire, SEIU Local 1984 v. State of New Hampshire, Decision No. 2013-079, May 28, 2013 (Case No. G-0115-3)

Background: The Union filed a petition requesting a declaratory ruling pursuant to Pub 206.01 as to whether the State had the right to unilaterally designate certain bargaining unit employees as RSA 273-A:1, IX “confidential” employees and thereby remove such employees from the bargaining unit and coverage under the parties’ collective bargaining agreement.

Decision: PELRB ruled that employers, such as the State in this case, do not have the authority to unilaterally designate employees as confidential, effectively removing them from an existing bargaining unit, and without prior PELRB approval because under RSA 273-A and N.H. Admin Rule Pub 100-300 the PELRB is charged with the determination of bargaining units. There is nothing in the statute or rules, either expressly or implicitly, that shifts this obligation to the employer after the original certification has been issued by the PELRB. If an employer wishes to change the status of employees within the bargaining unit the employer must file a modification petition with the PELRB or a petition for a declaratory ruling.

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.