<u>State Employees' Association of NH, Inc., SEIU Local 1984 v. State of New Hampshire, Department of Health & Human Services</u>, Decision No. 2014-184 (Case No. G-0148-2).

The Union claimed that the State violated RSA 273-A:5, I (e), (h), & (i) when it scheduled implementation of a salary reduction via the elimination of the salary enhancements for certain Sununu Youth Services Center (SYSC) employees. The salary enhancement portion of the SYSC pay plan originated from the 1991 federal court consent decree which addressed, among other things, the delivery of a free public education to youth now being served by the SYSC and the need to attract and retain educational personnel to provide this education. The Union maintained that the provision of salary enhancements to the SYSC employees had become a binding past practice and any changes to this wage arrangement was subject to mandatory negotiations. The Union claimed that elimination of enhancement would reduce the wages of affected employees by as much as 25% and was an unlawful unilateral change to the wage plan of the SYSC employees and a violation of the mandatory bargaining obligations. The Union filed a Motion for Interim relief under RSA 273-A:6, III and N.H. Admin. Rule, Pub 203.04, requesting that the PELRB order the State to maintain the status quo pending a hearing and decision.

The State denied the charges, objected to the SEA motion for interim relief, and moved to dismiss. The State claimed that the salary enhancement was "temporary" pursuant to RSA 99:8 and N.H. Admin. Rule Per 904.01; that the decision to give salary enhancements was within the State's exclusive managerial prerogative; and that there was no valid past practice because the salary enhancements were statutory. The State also argues that the federal court case was closed over ten years ago based upon a finding that the State had substantially complied with the decree; that the salary enhancements were not expressly included in the collective bargaining agreement (CBA); that the elimination of the salary enhancements was required to meet a $1.2 million SYSC budget reduction obligation and avoid employee layoffs; that the use of salary enhancements was no longer necessary to attract and retain SYSC education personnel; and that the complaint was barred by the RSA 273-A:6, VII six month limitation period.

The PELRB held that the Union's complaint alleged facts and violations of RSA 273-A:5 which are within the PELRB's jurisdiction and the State's arguments based upon RSA 99:8 and N.H. Admin. Rule Per 904.01 did not mean that the PELRB lost jurisdiction to decide whether the State violated the provisions of RSA 273-A:5. The State's motion to dismiss based upon the six month limitation period set forth in RSA 273-A:6, VII was denied as the complaint was filed within six months of the triggering event. The PELRB found that the inclusion of salary enhancement in the CBA wage scales was a binding past practice and was subject to mandatory negotiation; and the State's unilateral discontinuation of the salary was an unfair labor practice. The State was ordered to restore the salary enhancements, make affected employees whole, allow any SYSC employee who retired on account wage change to return to State service, and to negotiate any changes to the existing salary enhanced wages for the SYSC employees. The Union's motion for interim relief was denied as moot.

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.