UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN CIVIL LIBERTIES UNION, INC.

    and   **Cases 05-CA-300367**
                                                            05-CA-302762

NONPROFIT PROFESSIONAL EMPLOYEES
UNION (NPEU), INTERNATIONAL FEDERATION
OF PROFESSIONAL & TECHNICAL ENGINEERS
(IFPTE) LOCAL 70 a/w INTERNATIONAL
FEDERATION OF PROFESSIONAL &
TECHNICAL ENGINEERS, AFL-CIO, CLC

ORDER

The Respondent's request for special permission to appeal from Administrative Law Judge Michael A. Rosa's Order denying its motion to defer the instant Board action to the grievance and arbitration procedure set forth in its personnel policy (Policy No. 527) is granted. On the merits, the appeal is denied. The Respondent has failed to establish that the judge abused his discretion in denying its motion to defer.

Moreover, we agree with Counsel for the General Counsel that the public policy considerations underlying the Board's deferral policies do not extend to a unilaterally imposed dispute-resolution procedure such as the one at issue here. See, e.g., *Am. League of Professional Baseball Clubs*, 180 NLRB 190, 191 (1969) ("[I]t is patently contrary to the letter and spirit of the Act for the Board to defer its undoubted jurisdiction to decide unfair labor practices to a dispute settlement system established unilaterally by an employer or group of employers."); see also *Pontiac Osteopathic Hospital*, 284 NLRB 442, 442 fn. 3 (1987) (declining to defer to a

unilaterally implemented appeals board). Thus, we conclude that the judge did not err in declining to defer this matter to arbitration.[1]

Dated, Washington, D.C., March 6, 2024.

MARVIN E. KAPLAN,   MEMBER

DAVID M. PROUTY,   MEMBER

GWYNNE A. WILCOX,   MEMBER

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[1] Member Kaplan agrees with his colleagues that the judge did not abuse his discretion in denying the Respondent's motion to defer. In doing so, however, Member Kaplan finds it unnecessary to pass on whether the Board's deferral policies extend to the unilaterally imposed dispute-resolution procedure present here.