In regard to remedy, the Arbitrator noted that, because the grievance over alternative work schedules had been settled, the remedy was limited. Id. at 18. As a remedy, the Arbitrator ordered that the Agency “may not interview grievants within the ambit of an institutional grievance without the Union’s permission.” Id. The Arbitrator also ordered that, when the Agency “exercises its right to interview bargaining unit employee-witnesses for a third-party adjudication, [the Agency] must give scheduling notices and Brookhaven advice narrowly drafted to achieve the purposes” of the Authority’s decision in Brookhaven. Id. In addition, the Arbitrator noted that the Union had requested as a remedy that he “impose discipline on [the Agency’s counsel] and . . . threaten discipline for future similar violations[.]” Id. The Arbitrator denied the request explaining that he had “no power to impose such relief.” Id.

* The Arbitrator’s reference is to the decision of the Authority in Internal Revenue Serv., 9 FLRA 930 (1982) (Brookhaven). In Brookhaven, the Authority established safeguards to protect employee rights under § 7102 of the Statute when management interviews bargaining unit employees “to ascertain necessary facts” in preparation for third-party proceedings. 9 FLRA at 933.
III. Positions of the Parties

A. Union’s Exception

The Union contends that the Arbitrator’s conclusion “that he could not provide a remedy concerning such future conduct of Agency Representatives against unit employees” is deficient. Exception at 2. The Union asserts, as follows:

If an arbitrator finds a violation of an unfair labor practice under the Statute, he must provide a remedy similar to what the FLRA would have provided if the matter had been filed as an unfair labor practice charge.

Id.

B. Agency’s Opposition

The Agency contends that the Union fails to establish that the Arbitrator’s conclusion that he was not empowered to order the requested relief is deficient. The Agency asserts that, although the Authority has a broad range of remedial powers, the Union fails to show that its requested relief is a remedy “that the Authority has power to impose[.]” Opposition at 5.

IV. Analysis and Conclusions

When an exception to an arbitration award challenges an award’s consistency with law, we review the question of law raised by the exception and the award de novo. E.g., NTEU Chapter 24, 50 FLRA 330, 332 (1995). In applying a standard of de novo review, we assess whether the arbitrator’s legal conclusions are consistent with the applicable standard of law. E.g., NFFE Local 1437, 53 FLRA 1703, 1710 (1998). In a grievance proceeding that alleges an unfair labor practice (ULP) under § 7116 of the Statute, an arbitrator functions as a substitute for an Authority administrative law judge (ALJ). NTEU, 61 FLRA 729, 732 (2006). Consequently, in resolving the grievance, the arbitrator must apply the same statutory standards that are applied by ALJs under § 7118 of the Statute. Id. In addition, when the arbitrator finds that a ULP was committed, the Authority defers to the judgment and discretion of the arbitrator in the determination of the remedy. NTEU, 48 FLRA 566, 571 (1993). Unless the party excepting to the arbitrator’s determination of remedy establishes that a particular remedy is compelled by the Statute, we review the remedy determinations of arbitrators in ULP grievance cases just as the Authority’s remedies in ULP cases are reviewed by the federal courts of appeals. Id. at 571-72. More specifically, we uphold the arbitrator’s remedy determination unless the determination is “a patent attempt to achieve ends other than those which can fairly be said to effectuate the policies of the [Statute].” Id. at 572 (quoting NTEU v. FLRA, 910 F.2d 964, 968 (D.C. Cir. 1990) (en banc) (emphasis original)). We have emphasized that this “is a heavy burden indeed.” Id. (quoting NTEU v. FLRA, 910 F.2d at 968).

The Union fails to meet this heavy burden here. The Union fails to demonstrate that its requested remedy was compelled by the Statute. In this regard, the Union cites no cases in which the Authority ordered such relief to remedy an unfair labor practice. In addition, the Union fails to establish that the Arbitrator’s rejection of its requested remedy was a patent attempt to achieve ends other than those to effectuate the policies of the Statute.

Accordingly, we deny the Union’s exception.

V. Decision

The Union’s exception is denied.