

**Mary Ellen Powell v. Keene School District (John H. Fuller Elementary School)**, Decision No 2012-175 (Case No. E-0120-1).

**Background:** A District's employee filed an unfair labor practice complaint challenging the manner in which she was compensated. The Complainant claimed that the District violated RSA 273-A:5, I (h) by improperly refusing to recognize that, based on her duties and responsibilities, she was a "teacher" within the meaning of the bargaining unit certification and, therefore, should be compensated in accordance with the teacher's collective bargaining agreement (CBA). The District denied the claims and moved to dismiss, asserting, among other things, that the PELRB lacked jurisdiction over the complaint because the Complainant was not a certified teacher and that the request for relief was untimely. The Union filed a petition to intervene in support of Ms. Powell's claim on the ground that it was the exclusive representative of the teachers' bargaining unit at issue in this case. The request to intervene was granted.

**Decision:** The Hearing Officer found that, although classified as an "Instructional Paraprofessional," the Complainant had been performing the duties and responsibilities of a teacher and was, therefore, covered by the bargaining unit certification and the teacher's CBA. Because the Complainant was covered by the CBA that contained a binding arbitration provision and because this dispute was within the scope of the CBA, the parties were directed to utilize the contractual grievance procedure to determine whether the District failed to compensate the Complainant in accordance with the CBA.

***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.***