



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Mary Ellen Powell

v.

Keene School District
(John H. Fuller Elementary School)

Case No. E-0120-1
Decision No. 2011-293

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: November 18, 2011

Appearances: Ellen Purcell, Esq. for the Complainant
Margaret-Ann Moran, Esq. for the Respondent
James F. Allmendinger, Esq. for Intervener NEA-NH

Background:

Mary Ellen Powell, an employee in the Keene School District, filed on a pro se basis an unfair labor practice complaint on October 13, 2011 challenging the manner in which she is compensated. Attorney Purcell has appeared in the case as counsel for Ms. Powell but has not yet submitted any pleadings on her behalf. However, she did represent Ms. Powell at the pre-hearing conference. At the pre-hearing conference attorney Purcell clarified that in general Ms. Powell claims the District has improperly refused to recognize that given her duties and responsibilities she is a "teacher" within the meaning of the existing bargaining unit certification and is therefore covered by the collective bargaining process and any applicable collective bargaining agreement. The pleadings submitted by Ms. Powell to date require clarification in order to state more fully the claim described by attorney Purcell at the pre-hearing conference as well as the specific provisions of RSA 273-A the District has allegedly violated. A schedule for

this activity was established at the pre-hearing conference and is described in more detail later in this order.

The District has answered the complaint and moved to dismiss, claiming, among other things, that the PELRB lacks jurisdiction over the complaint because Ms. Powell is not a bargaining unit employee.

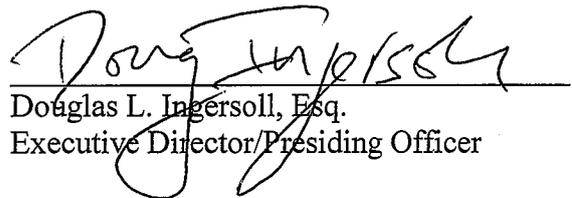
The Keene Education Association, NEA-New Hampshire (Association), has filed a petition to intervene given its status as the exclusive representative of the bargaining unit at issue. The undersigned granted the Association's request to intervene at the pre-hearing conference.

DECISION

1. "Parties" means Ms. Powell, the Association, and the District, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. Attorney Purcell shall file an amended complaint and an objection to the District's motion to dismiss on or before November 28, 2011.
3. The District shall file an answer to the amended complaint on or before December 9, 2011.
4. On or before December 16, 2011 the parties shall notify the PELRB whether this case can be submitted for decision on stipulations and briefs, in which case they shall propose a schedule for such filings. Alternatively, on or before December 16, 2011 the parties shall notify the PELRB whether an adjudicatory hearing is required in which event the PELRB will schedule and notify the parties of a date for hearing.
5. The adjudicatory hearing currently scheduled for December 1, 2011 is cancelled.
6. To the extent their interests in this case overlap and are in common attorney Purcell and attorney Allmendinger shall consult in order to coordinate the respective representation as discussed during the pre-hearing conference.

So ordered.

November 23, 2011


Douglas L. Ingersoll, Esq.
Executive Director/Presiding Officer

Distribution: Ellen Purcell, Esq.
Margaret-Ann Moran, Esq.
James Allmendinger, Esq.