



# The Four Winds

National Weather Service Employees Organization

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## NWSEO Wins Landmark Case Establishing Pay Equity for Part-Time Federal Employees

On May 26, the United States Court of Appeals for the Federal Circuit issued a decision in *Fathauer et al v. United States* holding that part-time Federal employees who work on Sunday are entitled to the same 25% Sunday differential received by full-time Federal employees. This suit was brought by NWSEO on behalf of two forecasters at WFO Fairbanks, two forecasters at WFO Spokane and a forecaster at the CWSU at Islip, NY who regularly work part-time. Each of these five plaintiffs is covered by “job-sharing” arrangements and will be entitled to the premium pay they should have earned while working on Sundays over the past **several years.**

In 1969, Congress granted Federal employees who are covered by the General Schedule a 25% pay differential when they are scheduled to work on a Sunday. The law makes no distinction between those employees who work full-time and those who work a part-time schedule. However, regulations of the Office of Personnel Management limit payment of the Sunday differential to full-time employees.

In 1978, Congress enacted the Federal Employee Part-Time Career Employment Act in order to promote opportunities for Federal employees to engage in “job-sharing” or other part-time employment opportunities. Nonetheless, OPM continued to discriminate against part-time workers by denying them the same premium pay entitlements granted by law to all Federal employees.

Last year, a lower court ruled that the plaintiffs were not entitled to Sunday premium pay, but NWSEO appealed to the Court of Appeals for the Federal Circuit, which is just below the Supreme Court and handles most monetary claims against the government. In its decision, the Court of Appeals held that the plain language of the Sunday premium pay statute (which entitles “an employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work . . . a part of which is performed on Sunday” to a 25% differential) does not differentiate between full time and part-time employees, and therefore OPM’s regulations which limited entitlement to full-time employees are invalid.

Only 13% of all appeals to the Court of Appeals for the Federal Circuit are successful.

NWSEO has already had inquiries from other unions who represent employees that may be impacted by this decision. “NWSEO is in the vanguard of protecting Federal employee rights,” said Dan Sobien, NWSEO President. “It doesn’t take a large union to win big cases - only a union that thinks large.”

A copy of the full Court of Appeals decision may be found on NWSEO’s website at [www.nwseo.org](http://www.nwseo.org).