



The Four Winds

National Weather Service Employees Organization

NWSEO files suit against FSIP, says appointment violates Constitutional requirement for Senate Confirmation

(June 18, 2020) On June 15, the National Weather Service Employees Organization filed suit in Federal court in Washington, D.C. challenging the authority of the Federal Service Impasse Panel to impose contract terms on NWSEO and the NWS. The suit alleges that the FSIP has no legal authority because its ten members, all of whom were appointed by the President, were not confirmed by the Senate, as required by the Appointments Clause of the U.S. Constitution. Three other Federal employee unions have brought similar legal actions against the FSIP.

NWSEO's suit also alleges that the FSIP is acting in excess of its statutory authority because it intends to impose contract terms on NWSEO and the NWS in the absence of a bona fide impasse in negotiations. Progress towards a new NWSEO-NWS agreement continued to be made during the last three bargaining sessions in May, June and July 2019, and the parties continued to exchange new proposals and make agreements. Because of the progress towards a new agreement that was being made, on July 29 the union attempted to schedule additional bargaining sessions, proposing specific dates for August and September. However, the NWS's chief negotiator refused to schedule any additional dates and wrote that the agency would only meet for one previously scheduled session on July 30 to provide the union an opportunity to unconditionally accept its outstanding proposals.

On December 19, 2019 the NWS filed a request for assistance with the Federal Service Impasses Panel. On March 13, 2020 the Panel issued an Order asserting jurisdiction over the outstanding articles that had not yet been resolved during bargaining between the NWS and the NWSEO. The Panel ordered the NWS and the NWSEO to submit their "final offers" and a supporting position statement by March 30, 2020 and provided the parties with an opportunity to submit rebuttal position statements by April 10, 2020. Nevertheless, even after the Panel has exerted jurisdiction over this ostensible "impasse" in bargaining, the NWS and the NWSEO continued negotiations. Since March 30, the parties have, without Panel assistance, but with its full knowledge, voluntarily reached agreement on another thirteen articles of their successor agreement.

The matter is still presently under consideration by the Panel, which may issue a final decision following its next meeting on June 23. NWSEO has also requested that the Federal Labor Relations Authority issue a stay of the FSIP's proceedings until NWSEO's legal challenge to the FSIP is resolved in court. However, it is not known whether the FLRA will act on NWSEO's request for a stay before the Panel issues a decision, which may come as early as next week.

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No one works harder for NOAA employees than NOAA employees.

We are NOAA employees. We are NWSEO.