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SUBCHAPTER I—GENERAL

§1301. Definitions

(a) In general

Except as otherwise specifically provided in this chapter, as used in this chapter:

(1) Board

The term "Board" means the Board of Directors of the Office of Congressional Workplace Rights.

(2) Chair

The term "Chair" means the Chair of the Board of Directors of the Office of Congressional Workplace Rights.

(3) Covered employee

The term "covered employee" means any employee of—

- (A) the House of Representatives;
- (B) the Senate;
- (C) the Office of Congressional Accessibility Services;
- (D) the Capitol Police;
- (E) the Congressional Budget Office;
- (F) the Office of the Architect of the Capitol;
- (G) the Office of the Attending Physician;
- (H) the Office of Congressional Workplace Rights;
- (I) the Office of Technology Assessment;
- (J) the Library of Congress, except for section 1351 of this title; or
- (K) the John C. Stennis Center for Public Service Training and Development.

(4) Employee

The term "employee" includes an applicant for employment and a former employee.

(5) Employee of the Office of the Architect of the Capitol

The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol or the Botanic Garden.

(6) Employee of the Capitol Police

The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

(7) Employee of the House of Representatives

The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Chief Administrative Officer of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (C) through (K) of paragraph (3).

(8) Employee of the Senate

The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (C) through (K) of paragraph (3).

(9) Employing office

The term "employing office" means—

(A) the personal office of a Member of the House of Representatives or of a Senator;
(B) a committee of the House of Representatives or the Senate or a joint committee;
(C) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate;

(D) the Office of Congressional Accessibility Services, the United States Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Congressional Workplace Rights, the Office of Technology Assessment, and the John C. Stennis Center for Public Service Training and Development; or

(E) the Library of Congress, except for section 1351 of this title.

(10) Executive Director

The term "Executive Director" means the Executive Director of the Office of Congressional Workplace Rights.

(11) General Counsel

The term "General Counsel" means the General Counsel of the Office of Congressional Workplace Rights.

(12) Office

The term "Office" means the Office of Congressional Workplace Rights.

(b) Clarification of coverage of employees of certain commissions

(1) Coverage

With respect to the China Review Commission, the Congressional-Executive China Commission, and the Helsinki Commission—

(A) any individual who is an employee of such Commission shall be considered a covered employee for purposes of this chapter; and

(B) the Commission shall be considered an employing office for purposes of this chapter.

(2) Authority to provide legal assistance and representation

Subject to paragraph (3), legal assistance and representation under this chapter, including assistance and representation with respect to the proposal or acceptance of the disposition of a claim under this chapter, shall be provided to the China Review Commission, the Congressional-Executive China Commission, and the Helsinki Commission—

(A) by the Office of House Employment Counsel of the House of Representatives, in the case of assistance and representation in connection with a claim filed under subchapter IV (including all subsequent proceedings under such subchapter in connection with the claim) at a time when the chair of the Commission is a Member of the House, and in the case of assistance and representation in connection with any subsequent claim under subchapter IV related to the initial claim where the subsequent claim involves the same parties; or

(B) by the Office of Senate Chief Counsel for Employment of the Senate, in the case of assistance and representation in connection with a claim filed under subchapter IV (including all subsequent proceedings under such subchapter in connection with the claim) at a time when the chair of the Commission is a Senator, and in the case of assistance and representation in connection with any subsequent claim under subchapter IV related to the initial claim where the subsequent claim involves the same parties.

(3) Definitions

In this subsection—

(A) the term "China Review Commission" means the United States-China Economic and Security Review Commission established under section 7002 of title 22, as enacted into law by section 1 of Public Law 106–398;

(B) the term "Congressional-Executive China Commission" means the Congressional-Executive Commission on the People's Republic of China established under title III of the U.S.–China Relations Act of 2000 (Public Law 106–286; 22 U.S.C. 6911 et seq.); and

(C) the term "Helsinki Commission" means the Commission on Security and Cooperation in Europe established under the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (Public Law 94–304; 22 U.S.C. 3001 et seq.).

(Pub. L. 104–1, title I, §101, Jan. 23, 1995, 109 Stat. 4; Pub. L. 110–279, §1(g)(1), July 17, 2008, 122 Stat. 2609; Pub. L. 110–437, title IV, §422(b)(1), (2), Oct. 20, 2008, 122 Stat. 4996; Pub. L. 111–145, §2(a)(5)(A), Mar. 4, 2010, 124 Stat. 50; Pub. L. 115–141, div. I, title I, §153(a)(1)(A), Mar. 23, 2018, 132 Stat. 785; Pub. L. 115–397, title III, §§302(b), 305(a)–(c), 308(b)(1)–(7), Dec. 21, 2018, 132 Stat. 5321, 5323, 5324, 5326.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The U.S.–China Relations Act of 2000, referred to in subsec. (b)(3)(B), is div. B of Pub. L. 106–286, Oct. 10, 2000, 114 Stat. 891. Title III of the Act is classified to subchapter II (§6911 et seq.) of chapter 77 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 22 and Tables.

AMENDMENTS

2018—Pub. L. 115–397, §305(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (a). Pub. L. 115–397, §308(b)(1)–(7), substituted "Office of Congressional Workplace Rights" for "Office of Compliance" wherever appearing.

Par. (3)(J). Pub. L. 115–141, §153(a)(1)(A)(i), added subpar. (J). Par. (3)(J) subsequently redesignated subsec. (a)(3)(J).

Subsec. (a)(3)(K). Pub. L. 115–397, §305(b)(1), added subpar. (K).

Subsec. (a)(7). Pub. L. 115–397, §305(c), substituted "subparagraphs (C) through (K)" for "subparagraphs (C) through (I)".

Pub. L. 115–397, §302(b), substituted "disbursed by the Chief Administrative Officer of the House of Representatives" for "disbursed by the Clerk of the House of Representatives". Amendment, which was directed to par. (7), was executed to subsec. (a)(7) to reflect the intervening redesignation made by section 305(a) of Pub. L. 115–397.

Subsec. (a)(8). Pub. L. 115–397, §305(c), substituted "subparagraphs (C) through (K)" for "subparagraphs (C) through (I)".

Subsec. (a)(9)(D). Pub. L. 115–397, §305(b)(2), substituted "the Office of Technology Assessment, and the John C. Stennis Center for Public Service Training and Development" for "and the Office of Technology Assessment".

Par. (9)(E). Pub. L. 115–141, §153(a)(1)(A)(ii), added subpar. (E). Par. (9)(E) subsequently redesignated subsec. (a)(9)(E).

2010—Par. (9)(D). Pub. L. 111–145 substituted "the United States Capitol Police," for "the Capitol Police Board,".

2008—Par. (3)(C). Pub. L. 110–437, §422(b)(1), substituted "the Office of Congressional Accessibility Services;" for "the Capitol Guide Service;".

Par. (5). Pub. L. 110–279, which directed substitution of "or the Botanic Garden" for ", the Botanic Garden, or the Senate Restaurant", was executed by making the substitution for ", the Botanic Garden, or the Senate Restaurants" to reflect the probable intent of Congress.

Par. (9)(D). Pub. L. 110–437, §422(b)(2), substituted "the Office of Congressional Accessibility Services," for "the Capitol Guide Board,".

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–397, title III, §305(d), Dec. 21, 2018, 132 Stat. 5324, provided that: "The amendments made by this section [amending this section] shall take effect as if included in the enactment of the Congressional Accountability Act of 1995 [Pub. L. 104–1]."

Amendment by section 308(b) of Pub. L. 115–397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115–397, set out as a note under section 1381 of this title.

Pub. L. 115–397, title IV, §401, Dec. 21, 2018, 132 Stat. 5327, provided that:

"(a) In General.—Except as otherwise provided in this Act [See Short Title of 2018 Amendment note below], this Act and the amendments made by this Act shall take effect upon the expiration of the 180-day period which begins on the date of the enactment of this Act [Dec. 21, 2018].

"(b) No Effect on Pending Proceedings.—Nothing in this Act or the amendments made by this Act may be construed to affect any proceeding or payment of an award or settlement relating to a claim under title IV of the Congressional Accountability Act of 1995 (2 U.S.C. 1401 et seq.) which is pending as of the date after that 180-day period. If, as of that date, an employee has begun any of the proceedings under that title that were available to the employee prior to that date, the employee may complete, or initiate and complete, all such proceedings, and such proceedings shall remain in effect with respect to, and provide the exclusive proceedings for, the claim involved until the completion of all such proceedings."

Pub. L. 115–141, div. I, title I, §153(c), Mar. 23, 2018, 132 Stat. 787, provided that: "This section [amending this section and sections 1314 to 1316, 1331, 1341, 1351, 1401, 1404, and 1415 of this title] and the amendments made by this section—

"(1) shall take effect on the date of enactment of this section [Mar. 23, 2018]; and

"(2) shall apply to any charge, complaint, or claim, that is made on or after the date of enactment of this section, of a violation of—

"(A) section 201, 202, 203, 207, or 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311 et seq.) [2 U.S.C. 1311–1313, 1317, 1331]; or

"(B) a direct provision as defined in section 404(a) of the Congressional Accountability Act of 1995 (2 U.S.C. 1404[(a)]) (as added by subsection (b))."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–437, title IV, §422(d), Oct. 20, 2008, 122 Stat. 4997, provided that: "The amendments made by this section [amending this section and sections 1331 and 1341 of this title and section 2107 of Title 5, Government Organization and Employees, and repealing section 2166 of this title] shall take effect on the transfer date [first day of first pay period (applicable to employees transferred under section 2241 of this title) on or after 30 days after Oct. 20, 2008, see section 2261 of this title]."

Amendment by Pub. L. 110–279 effective July 17, 2008, and applicable to remainder of fiscal year in which enacted and each fiscal year thereafter, see section 2051(i) of this title.

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–397, §1(a), Dec. 21, 2018, 132 Stat. 5297, provided that: "This Act [enacting sections 1362, 1388, 1402a, 1417, 1437a, and 1437b of this title, amending this section and sections 1302, 1311, 1331, 1341, 1351, 1361, 1381, 1382, 1384, 1401 to 1405, 1408, 1414 to 1416, 1431, and 1438 of this title and section 8437 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section and sections 1331, 1381, and 1415 of this title] may be cited as the 'Congressional Accountability Act of 1995 Reform Act'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–6, §1, Mar. 20, 2015, 129 Stat. 81, provided that: "This Act [amending sections 1403, 1404, and 1416 of this title and enacting provisions set out as notes under sections 1381 and 1403 of this title] may be cited as the 'Office of Compliance Administrative and Technical Corrections Act of 2015'."

SHORT TITLE

Pub. L. 104–1, §1(a), Jan. 23, 1995, 109 Stat. 3, provided that: "This Act [enacting this chapter, amending sections 1201, 1202, 1219, 1220, and 1831 of this title, section 6381 of Title 5, Government Organization and Employees, sections 203, 633a, 2611, and 2617 of Title 29, Labor, and sections 2000e–16 and 12209 of Title 42, The Public Health and Welfare, repealing sections 60m, 60n, 1203 to 1218, 1221, 1223, and 1224 of this title, and enacting provisions set out as a note under section 751 of Title 31, Money and Finance] may be cited as the 'Congressional Accountability Act of 1995'."

CONSTRUCTION OF 2010 AMENDMENT

Pub. L. 111–145, §2(a)(5)(B), Mar. 4, 2010, 124 Stat. 50, provided that: "Nothing in the amendment made by subparagraph (A) [amending this section] may be construed to affect any procedure initiated under title IV of the Congressional Accountability Act of 1995 [2 U.S.C. 1401 et seq.] prior to the date of the enactment of this Act [Mar. 4, 2010]."

§1302. Application of laws

(a) Laws made applicable

The following laws shall apply, as prescribed by this chapter, to the legislative branch of the Federal Government:

- (1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).
- (2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).
- (3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- (4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).
- (5) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).
- (6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

- (7) Chapter 71 (relating to Federal service labor-management relations) of title 5.
- (8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).
- (9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).
- (10) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).
- (11) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

(b) Laws which may be made applicable

(1) In general

The Board shall review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations.

(2) Board report

Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(3) Reports of congressional committees

Each report accompanying any bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations reported by a committee of the House of Representatives or the Senate shall—

(A) describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch; or

(B) in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provision does not apply.

On the objection of any Member, it shall not be in order for the Senate or the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph. This paragraph may be waived in either House by majority vote of that House.

(c) Genetic Information Nondiscrimination Act of 2008

(1) In general

The provisions of this chapter that apply to a violation of section 1311(a)(1) of this title shall be considered to apply to a violation of title II of the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff et seq.), consistent with section 207(c) of that Act (42 U.S.C. 2000ff–6(c)).

(2) Construction

(A) No limitation on other laws

Nothing in this section limits the provisions of this chapter that apply to a violation of a law described in subparagraph (B).

(B) Other laws

A law described in this subparagraph is a law (even if not listed in subsection (a) or this subsection) that explicitly applies one or more provisions of this chapter to a violation. (Pub. L. 104–1, title I, §102, Jan. 23, 1995, 109 Stat. 5; Pub. L. 115–397, title III, §301, Dec. 21, 2018, 132 Stat. 5320.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (a)(1), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 252, as amended. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(3), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Age Discrimination in Employment Act of 1967, referred to in subsec. (a)(4), is Pub. L. 90–202, Dec. 15, 1967, 81 Stat. 602, as amended, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The Family and Medical Leave Act of 1993, referred to in subsec. (a)(5), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6, as amended, which enacted sections 60m and 60n of this title, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§2601 et seq.) of Title 29, Labor, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

The Occupational Safety and Health Act of 1970, referred to in subsec. (a)(6), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Employee Polygraph Protection Act of 1988, referred to in subsec. (a)(8), is Pub. L. 100–347, June 27, 1988, 102 Stat. 646, as amended, which is classified generally to chapter 22 (§2001 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in subsec. (a)(9), is Pub. L. 100–379, Aug. 4, 1988, 102 Stat. 890, which is classified generally to chapter 23 (§2101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(10), is [Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355](#), as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Genetic Information Nondiscrimination Act of 2008, referred to in subsec. (c)(1), is [Pub. L. 110–233, May 21, 2008, 122 Stat. 881](#). Title II of the Act is classified generally to chapter 21F (§2000ff et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000ff of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (c). [Pub. L. 115–397](#) added subsec. (c).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by [Pub. L. 115–397](#) effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of [Pub. L. 115–397](#), set out as a note under section 1301 of this title.

SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

Part A—Employment Discrimination, Family and Medical Leave, Fair Labor Standards, Employee Polygraph Protection, Worker Adjustment and Retraining, Employment and Reemployment of Veterans, and Intimidation

§1311. Rights and protections under title VII of Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, Rehabilitation Act of 1973, and title I of Americans with Disabilities Act of 1990

(a) Discriminatory practices prohibited

All personnel actions affecting covered employees shall be made free from any discrimination based on—

- (1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2);
- (2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or
- (3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114).

(b) Remedy

(1) Civil rights

The remedy for a violation of subsection (a)(1) shall be—

- (A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1981 of title 42, or as would be appropriate if awarded under sections 1981a(a)(1), 1981a(b)(2), and, irrespective of the size of the employing office, 1981a(b)(3)(D) of title 42.

(2) Age discrimination

The remedy for a violation of subsection (a)(2) shall be—

(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)).

In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

(3) Disabilities discrimination

The remedy for a violation of subsection (a)(3) shall be—

(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

(B) such compensatory damages as would be appropriate if awarded under sections 1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and, irrespective of the size of the employing office, 1981a(b)(3)(D) of title 42.

(c) Omitted

(d) Application to unpaid staff

(1) In general

Subsections (a) and (b) shall apply with respect to—

(A) any staff member of an employing office who carries out official duties of the employing office but who is not paid by the employing office for carrying out such duties (referred to in this subsection as an "unpaid staff member"), including an intern, an individual detailed to an employing office, and an individual participating in a fellowship program, in the same manner and to the same extent as such subsections apply with respect to a covered employee; and

(B) a former unpaid staff member, if the act that may be a violation of subsection (a) occurred during the service of the former unpaid staffer for the employing office.

(2) Rule of construction

Nothing in paragraph (1) may be construed to extend liability for a violation of subsection (a) to an employing office on the basis of an action taken by any person who is not under the supervision or control of the employing office.

(3) Intern defined

For purposes of this subsection, the term "intern" means an individual who performs service for an employing office which is uncompensated by the United States to earn credit awarded by an educational institution or to learn a trade or occupation, and includes any individual participating in a page program operated by any House of Congress.

(e) Effective date

This section shall take effect 1 year after January 23, 1995.

(Pub. L. 104–1, title II, §201, Jan. 23, 1995, 109 Stat. 7; Pub. L. 115–397, title III, §302(a), Dec. 21, 2018, 132 Stat. 5321.)

CODIFICATION

Section is comprised of section 201 of Pub. L. 104–1. Subsec. (c) of section 201 of Pub. L. 104–1 amended section 633a of Title 29, Labor, and sections 2000e–16 and 12209 of Title 42, The Public Health and Welfare.

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115–397 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

COVERAGE OF HOUSE OF REPRESENTATIVES AND THE AGENCIES OF THE LEGISLATIVE BRANCH

Pub. L. 102–166, title I, §117, Nov. 21, 1991, 105 Stat. 1080, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537, provided that:

"(a) Coverage of the House of Representatives.—

"(1) In general.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

"(2) Employment in the house.—

"(A) Application.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

"(B) Administration.—

"(i) In general.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

"(ii) Resolution.—The resolution referred to in clause (i) is the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988), as incorporated into the Rules of the House of Representatives of the One Hundred Second Congress as Rule LI, or any other provision that continues in effect the provisions of such resolution.

"(C) Exercise of rulemaking power.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

"(b) Instrumentalities of Congress.—

"(1) In general.—The rights and protections under this title [see Tables for classification] and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

"(2) Establishment of remedies and procedures by instrumentalities.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies

and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in [former] section 301(c)(1) [former 42 U.S.C. 2000e–16a(c)(1)].

"(3) Report to congress.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

"(4) Definition of instrumentalities.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the Government Accountability Office, the Government Publishing Office, the Office of Technology Assessment, and the United States Botanic Garden.

"(5) Construction.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII for [of] the Civil Rights Act of 1964 (42 U.S.C. 2000e–16)."

[Section effective Nov. 21, 1991, except as otherwise provided, see section 402(a) of Pub. L. 102–166, set out as an Effective Date of 1991 Amendment note under section 1981 of Title 42, The Public Health and Welfare.]

§1312. Rights and protections under Family and Medical Leave Act of 1993

(a) Family and medical leave rights and protections provided

(1) In general

The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees.

(2) Definitions

For purposes of the application described in paragraph (1)—

(A) the term "employer" as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term "eligible employee" as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) Omitted

(d) Regulations

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement the rights and protections under this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) Effective date

(1) In general

Subsections (a) and (b) shall be effective 1 year after January 23, 1995.

(2) Government Accountability Office and Library of Congress

Subsection (c) shall be effective 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, §202, Jan. 23, 1995, 109 Stat. 9; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993, referred to in subsec. (a)(2), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6, as amended, which enacted sections 60m and 60n of this title, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§2601 et seq.) of Title 29, Labor, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

Subsection (c) of this section, referred to in subsec. (e)(2), amended section 6381 of Title 5, Government Organization and Employees, and sections 2611 and 2617 of Title 29, Labor.

CODIFICATION

Section is comprised of section 202 of Pub. L. 104–1. Subsec. (c) of section 202 of Pub. L. 104–1 amended section 6381 of Title 5, Government Organization and Employees, and sections 2611 and 2617 of Title 29, Labor.

AMENDMENTS

2004—Subsec. (e)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading.

§1313. Rights and protections under Fair Labor Standards Act of 1938

(a) Fair labor standards

(1) In general

The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees.

(2) Interns

For the purposes of this section, the term "covered employee" does not include an intern as defined in regulations under subsection (c).

(3) Compensatory time

Except as provided in regulations under subsection (c)(3) and in subsection (c)(4), covered employees may not receive compensatory time in lieu of overtime compensation.

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Irregular work schedules

The Board shall issue regulations for covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.] that apply to employees who have irregular work schedules.

(4) Law enforcement

Law enforcement personnel of the Capitol Police who are subject to the exemption under section 7(k) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(k)) may elect to receive compensatory time off in lieu of overtime compensation for hours worked in excess of the maximum for their work period.

(d) Omitted

(e) Effective date

Subsections (a) and (b) shall be effective 1 year after January 23, 1995.

(Pub. L. 104–1, title II, §203, Jan. 23, 1995, 109 Stat. 10; Pub. L. 104–197, title III, §312, Sept. 16, 1996, 110 Stat. 2415.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (c)(3), is act [June 25, 1938, ch. 676, 52 Stat. 1060](#), as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

CODIFICATION

Section is comprised of section 203 of Pub. L. 104–1. Subsec. (d) of section 203 of Pub. L. 104–1 amended section 203 of Title 29, Labor.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–197, §312(a), inserted "and in subsection (c)(4) of this section" after "subsection (c)(3) of this section".

Subsec. (c)(4). Pub. L. 104–197, §312(b), added par. (4).

APPLICATION OF RIGHTS AND PROTECTIONS OF FAIR LABOR STANDARDS ACT OF 1938 TO CONGRESSIONAL AND ARCHITECT OF THE CAPITOL EMPLOYEES

Pub. L. 101–157, §8, Nov. 17, 1989, 103 Stat. 944, provided that:

"(a) House Employees.—

"(1) In general.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is

increased pursuant to the amendment made by section 2, the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to any employee in an employment position in the House of Representatives and to any employing authority of the House of Representatives.

"(2) Administration.—In the administration of this subsection, the remedies and procedures under the Fair Employment Practices Resolution shall be applied. As used in this paragraph, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 4, 1988, as continued in effect by House Resolution 15, One Hundred First Congress, agreed to January 3, 1989.

"(b) Architect of the Capitol Employees.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2, the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to individuals employed under the Office of the Architect of the Capitol."

§1314. Rights and protections under Employee Polygraph Protection Act of 1988

(a) Polygraph practices prohibited

(1) In general

No employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2002(1), (2), or (3)). In addition, the waiver provisions of section 6(d) of such Act (29 U.S.C. 2005(d)) shall apply to covered employees.

(2) Definitions

For purposes of this section, the term "covered employee" shall include employees of the Government Accountability Office and the term "employing office" shall include the Government Accountability Office.

(3) Capitol Police

Nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations under subsection (c).

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2005(c)(1)).

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown

and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after January 23, 1995.

(2) Government Accountability Office and Library of Congress

This section shall be effective with respect to the Government Accountability Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, §204, Jan. 23, 1995, 109 Stat. 10; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 115–141, div. I, title I, §153(a)(2)(A), Mar. 23, 2018, 132 Stat. 785.)

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115–141 struck out "and the Library of Congress" after "the Government Accountability Office" in two places.

2004—Subsec. (a)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

Subsec. (d)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and text.

§1315. Rights and protections under Worker Adjustment and Retraining Notification Act

(a) Worker adjustment and retraining notification rights

(1) In general

No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

(2) Definitions

For purposes of this section, the term "covered employee" shall include employees of the Government Accountability Office and the term "employing office" shall include the Government Accountability Office.

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a)(1), (2), and (4)).

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after January 23, 1995.

(2) Government Accountability Office and Library of Congress

This section shall be effective with respect to the Government Accountability Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, §205, Jan. 23, 1995, 109 Stat. 11; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 115–141, div. I, title I, §153(a)(2)(B), Mar. 23, 2018, 132 Stat. 785.)

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115–141 struck out "and the Library of Congress" after "the Government Accountability Office" in two places.

2004—Subsec. (a)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

Subsec. (d)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and text.

§1316. Rights and protections relating to veterans' employment and reemployment

(a) Employment and reemployment rights of members of uniformed services

(1) In general

It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

(2) Definitions

For purposes of this section—

(A) the term "eligible employee" means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38,

(B) the term "covered employee" includes employees of the Government Accountability Office, and

(C) the term "employing office" includes the Government Accountability Office.

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 4323(d) of title 38.

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after January 23, 1995.

(2) Government Accountability Office and Library of Congress

This section shall be effective with respect to the Government Accountability Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, §206, Jan. 23, 1995, 109 Stat. 12; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111–275, title VII, §703(b), Oct. 13, 2010, 124 Stat. 2888; Pub. L. 115–141, div. I, title I, §153(a)(2)(C), Mar. 23, 2018, 132 Stat. 785.)

AMENDMENTS

2018—Subsec. (a)(2)(B), (C). Pub. L. 115–141 struck out "and the Library of Congress" after "the Government Accountability Office".

2010—Subsec. (b). Pub. L. 111–275 substituted "under section 4323(d) of title 38" for "under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38".

2004—Subsec. (a)(2)(B), (C). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

Subsec. (d)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and text.

§1316a. Legislative branch appointments

(1) Definitions

For the purposes of this section, the terms "covered employee" and "Board" shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) Rights and protections

The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, shall apply to covered employees.

(3) Remedies

(A) In general

The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5 in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) Procedure

The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 [2 U.S.C. 1401] (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act [2 U.S.C. 1311 et seq.].

(4) Regulations to implement section

(A) In general

The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this section.

(B) Agency regulations

The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(C) Coordination

The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) Applicability

Notwithstanding any other provision of this section, the term "covered employee" shall not, for purposes of this section, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5).

(6) Effective date

Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(Pub. L. 105–339, §4(c), Oct. 31, 1998, 112 Stat. 3185.)

REFERENCES IN TEXT

The Congressional Accountability Act of 1995, referred to in par. (3)(B), is Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3. Part A (§§201–207) of title II of the Act is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Veterans Employment Opportunities Act of 1998, and not as part of the Congressional Accountability Act of 1995 which comprises this chapter.

§1317. Prohibition of intimidation or reprisal

(a) In general

It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

(b) Remedy

The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a).

(Pub. L. 104–1, title II, §207, Jan. 23, 1995, 109 Stat. 13.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

Part B—Public Services and Accommodations Under Americans with Disabilities Act of 1990

§1331. Rights and protections under Americans with Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations

(a) Entities subject to this section

The requirements of this section shall apply to—

- (1) each office of the Senate, including each office of a Senator and each committee;
- (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;
- (3) each joint committee of the Congress;
- (4) the Office of Congressional Accessibility Services;
- (5) the Capitol Police;
- (6) the Congressional Budget Office;
- (7) the Office of the Architect of the Capitol (including the Botanic Garden);
- (8) the Office of the Attending Physician;
- (9) the Office of Congressional Workplace Rights;
- (10) the Office of Technology Assessment; and
- (11) the Library of Congress.

(b) Discrimination in public services and accommodations

(1) Rights and protections

The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

(2) Definitions

For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term "public entity" means any entity listed in subsection (a) that provides public services, programs, or activities.

(c) Remedy

The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.

(d) Available procedures

(1) Charge filed with General Counsel

A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) Mediation

If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 1403 of this title between the charging individual and any entity responsible for correcting the alleged violation.

(3) Complaint, hearing, Board review

If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 1406 of this title.

(4) Judicial review

A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 1407 of this title.

(5) Compliance date

If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b), compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

(e) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Entity responsible for correction

The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for categories of violations of subsection (b), the entity responsible for correction of a particular violation.

(f) Periodic inspections; report to Congress; initial study

(1) Periodic inspections

On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) to ensure compliance with subsection (b).

(2) Report

On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible,¹ for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) Initial period for study and corrective action

The period from January 23, 1995, until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the One Hundred Fourth Congress.

(4) Detailed personnel

The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) Omitted

(h) Election of remedies relating to rights to public services and accommodations for Library visitors

(1) Definition of Library visitor

In this subsection, the term "Library visitor" means an individual who is eligible to bring a claim for a violation under title II or III of the Americans with Disabilities Act of 1990 [42

U.S.C. 12131 et seq., 12181 et seq.] (other than a violation for which the exclusive remedy is under section 1311 of this title) against the Library of Congress.

(2) Election of remedies

(A) In general

A Library visitor who alleges a violation of subsection (b) by the Library of Congress may, subject to subparagraph (B)—

- (i) file a charge against the Library of Congress under subsection (d); or
- (ii) use the remedies and procedures set forth in section 2000e–16 of title 42, as provided under section 510 (other than paragraph (5)) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209).

(B) Timing

A Library visitor that has initiated proceedings under clause (i) or (ii) of subparagraph (A) may elect to change and initiate a proceeding under the other clause—

- (i) in the case of a Library visitor who first filed a charge pursuant to subparagraph (A)(i), before the General Counsel files a complaint under subsection (d)(3); or
- (ii) in the case of a Library visitor who first initiated a proceeding under subparagraph (A)(ii), before the Library visitor requests a hearing under the procedures of the Library of Congress described in such subparagraph.

(i) Effective date

(1) In general

Subsections (b), (c), and (d) shall be effective on January 1, 1997.

(2) Government Accountability Office, Government Publishing Office, and Library of Congress

Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, §210, Jan. 23, 1995, 109 Stat. 13; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–279, §1(g)(2), July 17, 2008, 122 Stat. 2609; Pub. L. 110–437, title IV, §422(b)(3), Oct. 20, 2008, 122 Stat. 4996; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537; Pub. L. 115–141, div. I, title I, §153(a)(1)(B), Mar. 23, 2018, 132 Stat. 785; Pub. L. 115–397, title III, §§303(a), (b), 308(b)(8), Dec. 21, 2018, 132 Stat. 5321, 5322, 5326.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (b)(2) and (h)(1), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Titles II and III of the Act are classified generally to subchapters II (§12131 et seq.) and III (§12181 et seq.), respectively, of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Subsection (g), referred to in subsec. (i)(2), amended section 12209 of Title 42.

CODIFICATION

Section is comprised of section 210 of Pub. L. 104–1. Subsec. (g) of section 210 of Pub. L. 104–1 amended section 12209 of Title 42, The Public Health and Welfare.

AMENDMENTS

2018—Subsec. (a)(9). Pub. L. 115–397, §308(b)(8), substituted "Office of Congressional Workplace Rights" for "Office of Compliance".

Subsec. (a)(11). Pub. L. 115–141 added par. (11).

Subsec. (d)(2). Pub. L. 115–397, §303(b), made technical amendment to reference in original act which appears in text as reference to section 1403 of this title.

Subsecs. (h), (i). Pub. L. 115–397, §303(a), added subsec. (h) and redesignated former subsec. (h) as (i).

2008—Subsec. (a)(4). Pub. L. 110–437 substituted "the Office of Congressional Accessibility Services;" for "the Capitol Guide Service;".

Subsec. (a)(7). Pub. L. 110–279 substituted "the Botanic Garden" for "the Senate Restaurants and the Botanic Garden".

2004—Subsec. (h)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading.

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in heading of subsec. (h)(2) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–397, title III, §303(c), Dec. 21, 2018, 132 Stat. 5322, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as if such amendments were included in the enactment of section 153 of the Legislative Branch Appropriations Act, 2018 (Public Law 115–141), and shall apply as specified in section 153(c) of such Act [set out as a note under section 1301 of this title]."

Amendment by section 308(b)(8) of Pub. L. 115–397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115–397, set out as a note under section 1381 of this title.

Except as otherwise provided, amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–437 effective first day of first pay period (applicable to employees transferred under section 2241 of this title) on or after 30 days after Oct. 20, 2008, see section 422(d) of Pub. L. 110–437, set out as a note under section 1301 of this title.

Amendment by Pub. L. 110–279 effective July 17, 2008, and applicable to remainder of fiscal year in which enacted and each fiscal year thereafter, see section 2051(i) of this title.

¹ So in original. The comma probably should not appear.

Part C—Occupational Safety and Health Act of 1970

§1341. Rights and protections under Occupational Safety and Health Act of 1970; procedures for remedy of violations

(a) Occupational safety and health protections

(1) In general

Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) Definitions

For purposes of the application under this section of the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.]—

(A) the term "employer" as used in such Act means an employing office;

(B) the term "employee" as used in such Act means a covered employee;

(C) the term "employing office" includes the Government Accountability Office and any entity listed in subsection (a) of section 1331 of this title that is responsible for correcting a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs; and

(D) the term "employee" includes employees of the Government Accountability Office.

(b) Remedy

The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) Procedures

(1) Requests for inspections

Upon written request of any employing office or covered employee, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(a), (d), (e), and (f)) to inspect and investigate places of employment under the jurisdiction of employing offices.

(2) Citations, notices, and notifications

For purposes of this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

(B) a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) Hearings and review

If after issuing a citation or notification, the General Counsel determines that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(4) Variance procedures

An employing office may request from the Board an order granting a variance from a standard made applicable by this section. For the purposes of this section, the Board shall

exercise the authorities granted to the Secretary of Labor in sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6) and 655(d)) to act on any employing office's request for a variance. The Board shall refer the matter to a hearing officer pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(5) Judicial review

The General Counsel or employing office aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 1407 of this title.

(6) Compliance date

If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

(d) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Employing office responsible for correction

The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

(e) Periodic inspections; report to Congress

(1) Periodic inspections

On a regular basis, and at least once each Congress, the General Counsel, exercising the same authorities of the Secretary of Labor as under subsection (c)(1), shall conduct periodic inspections of all facilities of the House of Representatives, the Senate, the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Congressional Workplace Rights, the Office of Technology Assessment, the Library of Congress, and the Government Accountability Office to report on compliance with subsection (a).

(2) Report

On the basis of each periodic inspection, the General Counsel shall prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol or other employing office responsible for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, identifying the employing office responsible for correcting the violation of this section uncovered by such inspection, describing any steps necessary to correct any violation of this section, and assessing any risks to employee health and safety associated with any violation.

(3) Action after report

If a report identifies any violation of this section, the General Counsel shall issue a citation or notice in accordance with subsection (c)(2)(A).

(4) Detailed personnel

The Secretary of Labor may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(f) Initial period for study and corrective action

The period from January 23, 1995, until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other employing offices to identify any violations of subsection (a), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other employing offices by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under subsection (e)(1) and shall submit the report under subsection (e)(2) for the One Hundred Fourth Congress.

(g) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a), (b), (c), and (e)(3) shall be effective on January 1, 1997.

(2) Government Accountability Office and Library of Congress

This section shall be effective with respect to the Government Accountability Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, §215, Jan. 23, 1995, 109 Stat. 16; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–437, title IV, §422(b)(4), Oct. 20, 2008, 122 Stat. 4996; Pub. L. 115–141, div. I, title I, §153(a)(2)(D), Mar. 23, 2018, 132 Stat. 785; Pub. L. 115–397, title III, §308(b)(9), Dec. 21, 2018, 132 Stat. 5326.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (a)(2), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

AMENDMENTS

2018—Subsec. (a)(2)(C). Pub. L. 115–141, §153(a)(2)(D)(i), struck out ", the Library of Congress," after "the Government Accountability Office".

Subsec. (a)(2)(D). Pub. L. 115–141, §153(a)(2)(D)(ii), struck out "and the Library of Congress" after "the Government Accountability Office".

Subsec. (e)(1). Pub. L. 115–397 substituted "Office of Congressional Workplace Rights" for "Office of Compliance".

2008—Subsec. (e)(1). Pub. L. 110–437 substituted "the Office of Congressional Accessibility Services," for "the Capitol Guide Service,".

2004—Subsecs. (a)(2)(C), (D), (e)(1) . Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

Subsec. (g)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and text.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115–397, set out as a note under section 1381 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–437 effective first day of first pay period (applicable to employees transferred under section 2241 of this title) on or after 30 days after Oct. 20, 2008, see section 422(d) of Pub. L. 110–437, set out as a note under section 1301 of this title.

Part D—Labor-Management Relations

§1351. Application of chapter 71 of title 5 relating to Federal service labor-management relations; procedures for remedy of violations

(a) Labor-management rights

(1) In general

The rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5 shall apply to employing offices and to covered employees and representatives of those employees.

(2) Application

For purposes of the application under this section of the sections referred to in paragraph (1), the term "agency" shall be deemed to include an employing office.

(3) Definitions

For purposes of this section, the term "covered employee" does not include an employee of the Library of Congress, and the term "employing office" does not include the Library of Congress.

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy, including a remedy under section 7118(a)(7) of title 5, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

(c) Authorities and procedures for implementation and enforcement

(1) General authorities of Board; petitions

For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5 and of the President under section 7103(b) of title 5. For purposes of this section, any petition or other submission that,

under chapter 71 of title 5, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) General authorities of the General Counsel; charges of unfair labor practice

For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(3) Judicial review

Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (1) or (2) of this subsection, may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 1407 of this title.

(4) Exercise of impasses panel authority; requests

For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5. For purposes of this section, any request that, under chapter 71 of title 5, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5.

(d) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

Except as provided in subsection (e), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(e) Specific regulations regarding application to certain offices of Congress

(1) Regulations required

The Board shall issue regulations pursuant to section 1384 of this title on the manner and extent to which the requirements and exemptions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and of this chapter, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under chapter 71 of title 5, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

- (i) a conflict of interest or appearance of a conflict of interest; or
- (ii) Congress' constitutional responsibilities.

(2) Offices referred to

The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Congressional Workplace Rights; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(f) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) shall be effective on October 1, 1996.

(2) Certain offices

With respect to the offices listed in subsection (e)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of regulations under subsection (e).

(Pub. L. 104–1, title II, §220, Jan. 23, 1995, 109 Stat. 19; Pub. L. 115–141, div. I, title I, §153(a)(1)(C), Mar. 23, 2018, 132 Stat. 785; Pub. L. 115–397, title III, §308(b)(10), Dec. 21, 2018, 132 Stat. 5326.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(1), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115–141, §153(a)(1)(C)(i), substituted "Application" for "Definition" in heading.

Subsec. (a)(3). Pub. L. 115–141, §153(a)(1)(C)(ii), added par. (3).

Subsec. (e)(2)(G). Pub. L. 115–397 substituted "Office of Congressional Workplace Rights" for "Office of Compliance".

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115–397, set out as a note under section 1381 of this title.

Part E—General

§1361. Generally applicable remedies and limitations

(a) Attorney's fees

If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 1331 of this title, is a prevailing party in any proceeding under section 1405, 1406, 1407, or 1408 of this title, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 2000e–5(k) of title 42.

(b) Interest

In any proceeding under section 1405, 1406, 1407, or 1408 of this title, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 2000e–16(d) of title 42.

(c) Civil penalties and punitive damages

No civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

(d) Exclusive procedure

(1) In general

Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter.

(2) Veterans

A covered employee under section 1316 of this title may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

(e) Construction

(1) Definitions and exemptions

Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

(2) Size limitations

Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than the Worker Adjustment and Retraining Notification Act [29 U.S.C. 2101 et seq.]) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

(3) Executive branch enforcement

This chapter shall not be construed to authorize enforcement by the executive branch of this chapter.

(Pub. L. 104–1, title II, §225, Jan. 23, 1995, 109 Stat. 22; Pub. L. 115–397, title I, §101(d), Dec. 21, 2018, 132 Stat. 5301.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), (d)(1), and (f), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

Part A of this subchapter, referred to in subsec. (e), was in the original "part A of this title", meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of this subchapter. For complete classification of part A to the Code, see Tables.

The Worker Adjustment and Retraining Notification Act, referred to in subsec. (f)(2), is Pub. L. 100–379, Aug. 4, 1988, 102 Stat. 890, which is classified generally to chapter 23 (§2101 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

AMENDMENTS

2018—Subsecs. (e), (f). Pub. L. 115–397 redesignated subsec. (f) as (e) and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: "Only a covered employee who has undertaken and completed the procedures described in sections 1402 and 1403 of this title may be granted a remedy under part A of this subchapter."

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

§1362. Notices

(a) In general

Every employing office shall post and keep posted (in conspicuous places upon its premises where notices to covered employees are customarily posted) a notice provided by the Office that—

- (1) describes the rights, protections, and procedures applicable to covered employees of the employing office under this chapter, concerning violations described in subsection (b); and
- (2) includes contact information for the Office.

(b) Violations

A violation described in this subsection is—

- (1) discrimination prohibited by section 1311(a) of this title (including, in accordance with section 1302(c) of this title, discrimination prohibited by title II of the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff et seq.) or 1316(a) of this title; and
- (2) a violation of section 1317 of this title that is related to discrimination described in paragraph (1).

(Pub. L. 104–1, title II, §226, as added Pub. L. 115–397, title III, §304(a), Dec. 21, 2018, 132 Stat. 5322.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Genetic Information Nondiscrimination Act of 2008, referred to in subsec. (b)(1), is Pub. L. 110–233, May 21, 2008, 122 Stat. 881. Title II of the Act is classified generally to chapter 21F (§2000ff et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000ff of Title 42 and Tables.

EFFECTIVE DATE

Section effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

Part F—Study

§1371. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress

(a) In general

The Board shall undertake a study of—

- (1) the application of the laws listed in subsection (b) to—
 - (A) the General Accounting Office;

- (B) the Government Printing Office; and
- (C) the Library of Congress; and

(2) the regulations and procedures used by the entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) Applicable statutes

The study under this section shall consider the application of the following laws:

- (1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5.
- (2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5.
- (3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5.
- (4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5.
- (5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5.
- (6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5.
- (7) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).
- (8) Chapter 71 (relating to Federal service labor-management relations) of title 5.
- (9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.).
- (10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).
- (11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).
- (12) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

(c) Contents of study and recommendations

The study under this section shall evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to the entities listed in paragraph (1) of subsection (a) and their employees are comprehensive and effective and shall include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.

(d) Deadline and delivery of study

Not later than December 31, 1996—

- (1) the Board shall prepare and complete the study and recommendations required under this section; and
- (2) the Board shall transmit such study and recommendations (with the Board's comments) to the head of each entity considered in the study, and to the Congress by delivery to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate.

(Pub. L. 104–1, title II, §230, Jan. 23, 1995, 109 Stat. 23; Pub. L. 104–53, title III, §309(a), (b), Nov. 19, 1995, 109 Stat. 538.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b)(1), is [Pub. L. 88–352, July 2, 1964, 78 Stat. 252](#), as amended. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Age Discrimination in Employment Act of 1967, referred to in subsec. (b)(2), is [Pub. L. 90–202, Dec. 15, 1967, 81 Stat. 602](#), as amended, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(3), is [Pub. L. 101–336, July 26, 1990, 104 Stat. 327](#), as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Family and Medical Leave Act of 1993, referred to in subsec. (b)(4), is [Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6](#), as amended, which enacted sections 60m and 60n of this title, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§2601 et seq.) of Title 29, Labor, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(5), is act [June 25, 1938, ch. 676, 52 Stat. 1060](#), as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Occupational Safety and Health Act of 1970, referred to in subsec. (b)(6), is [Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590](#), as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(7), is [Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355](#), as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The General Accounting Office Personnel Act of 1980, referred to in subsec. (b)(9), is [Pub. L. 96–191, Feb. 15, 1980, 94 Stat. 27](#), which was classified principally to section 52–1 et seq. of former Title 31, Money and Finance, and which was substantially repealed by [Pub. L. 97–258, §5\(b\), Sept. 13, 1982, 96 Stat. 1068](#), and reenacted by the first section thereof principally in subchapters III (§731 et seq.) and IV (§751 et seq.) of chapter 7 of Title 31, Money and Finance.

The Employee Polygraph Protection Act of 1988, referred to in subsec. (b)(10), is [Pub. L. 100–347, June 27, 1988, 102 Stat. 646](#), as amended, which is classified generally to chapter 22 (§2001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in subsec. (b)(11), is [Pub. L. 100–379, Aug. 4, 1988, 102 Stat. 890](#), which is classified generally to chapter 23 (§2101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

AMENDMENTS

1995—Subsec. (a). [Pub. L. 104–53, §309\(a\)](#), substituted "Board" for "Administrative Conference of the United States" in introductory provisions.

Subsec. (d)(1). Pub. L. 104–53, §309(b), substituted "Board" for "Administrative Conference of the United States" and struck out "and shall submit the study and recommendations to the Board" before semicolon.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance.

Government Printing Office redesignated Government Publishing Office. See section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104–53, title III, §309(c), Nov. 19, 1995, 109 Stat. 538, provided that: "The amendments made by this section [amending this section] shall take effect only if the Administrative Conference of the United States ceases to exist prior to the completion and submission of the study to the Board as required by section 230 of the Congressional Accountability Act of 1995 (2 U.S.C. 1371). [See provision of title IV of Pub. L. 104–52, set out as a note preceding section 591 of Title 5, Government Organization and Employees.]"

SUBCHAPTER III—OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

CODIFICATION

Pub. L. 115–397, title III, §308(b)(11), Dec. 21, 2018, 132 Stat. 5326, substituted "OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS" for "OFFICE OF COMPLIANCE" in subchapter heading.

§1381. Establishment of Office of Congressional Workplace Rights

(a) Establishment

There is established, as an independent office within the legislative branch of the Federal Government, the Office of Congressional Workplace Rights.

(b) Board of Directors

The Office shall have a Board of Directors. The Board shall consist of 5 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate, who are authorized to take such steps as they consider appropriate to ensure the timely appointment of the members of the Board consistent with the requirements of this section. Appointments of the first 5 members of the Board shall be completed not later than 90 days after January 23, 1995.

(c) Chair

The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) Board of Directors qualifications

(1) Specific qualifications

Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the

Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 1302 of this title.

(2) Disqualifications for appointments

(A) Lobbying

No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act ¹ to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) Incompatible office

No member of the Board appointed under subsection (b) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives, Senate, or instrumentality or other entity of the legislative branch (other than the Office), or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board,² an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Senate Fair Employment Practices) within 4 years of the date of appointment.

(3) Vacancies

A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) Term of office

(1) In general

Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board may be reappointed, but no individual may serve as a member for more than 2 terms.

(2) First appointments

Of the members first appointed to the Board—

- (A) 1 shall have a term of office of 3 years,
- (B) 2 shall have a term of office of 4 years, and
- (C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b).

(3) Permitting service until appointment of successor

A member of the Board may serve after the expiration of that member's term until a successor has taken office.

(f) Removal

(1) Authority

Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b), but only for—

- (A) disability that substantially prevents the member from carrying out the duties of the member,
- (B) incompetence,
- (C) neglect of duty,
- (D) malfeasance, including a felony or conduct involving moral turpitude, or

(E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2).

(2) Statement of reasons for removal

In removing a member of the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) Compensation

(1) Per diem

(A) Rate of compensation for each day

Each member of the Board shall be compensated, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board, at a rate equal to the daily equivalent of the lesser of—

- (i) the highest annual rate of compensation of any officer of the Senate; or
- (ii) the highest annual rate of compensation of any officer of the House of Representatives.

(B) Authority to prorate

The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) Travel expenses

Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) Duties

The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under subchapter IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to covered employees by the end of each fiscal year, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under this chapter and the result of such proceedings, and on the number of covered employees who filed a claim, the basis for the claim, and the action taken on the claim.

(i) Congressional oversight

The Board and the Office shall be subject to oversight (except with respect to the disposition of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs ² of the Senate and the Committee on House Oversight ² of the House of Representatives.

(j) Opening of Office

The Office shall be open for business, including receipt of requests for counseling under section 1402 of this title, not later than 1 year after January 23, 1995.

(k) Financial disclosure reports

Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978 with the Clerk of the House of Representatives.

(l) Annual reports on awards and settlements

(1) In general

Subject to the rules issued by the applicable committee pursuant to paragraph (2):

(A) Requirement

The Office shall prepare and submit to Congress, and publish on the public website of the Office, an annual report regarding payments from the account described in section 1415(a) of this title that were the result of claims alleging a violation of part A of subchapter II (referred to in this subsection as "covered payments").

(B) Reporting

The reporting required under this paragraph shall—

(i) for a covered payment, or the reimbursable portion of a covered payment, described in paragraph (2), conform to the requirements of the rules issued by the applicable committee under such paragraph; and

(ii) for a covered payment, or the portion of a covered payment, not described in paragraph (2)—

(I) include the amount of the covered payment or portion of the covered payment and information on the employing office involved; and

(II) identify each provision of part A of subchapter II that was the subject of a claim resulting in the covered payment or portion of the covered payment.

(C) Reporting periods and dates

The reporting required under this paragraph—

(i) for 2019, shall be submitted by the 60th day after the date on which the committees described in paragraph (2) issue the rules described in paragraph (2) and shall reflect covered payments made in calendar year 2019; and

(ii) for 2020 and each subsequent calendar year, shall be submitted by January 31 of that year and shall reflect covered payments made in the previous calendar year.

(2) Rules regarding reporting of covered payments for employing offices of the House and employing offices of the Senate

(A) In general

Not later than 180 days after December 21, 2018, the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate shall each issue rules establishing the content, format, and other requirements for the reporting required under paragraph (1)(B)(i) with respect to—

(i) any covered payment made for claims involving an employing office described in any of subparagraphs (A) through (C) of section 1301(a)(9) of this title of the House of Representatives or of the Senate, respectively; and

(ii) the reimbursable portion of any such covered payment for which there is a finding requiring reimbursement under section 1415(d)(1)(B) of this title from a Member of the

House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, respectively.

(B) Applicability

The rules issued under subparagraph (A)—

(i) by the Committee on House Administration of the House of Representatives shall apply to covered payments made for claims involving employing offices described in subparagraph (A)(i) of the House; and

(ii) by the Committee on Rules and Administration of the Senate shall apply to covered payments made for claims involving employing offices described in subparagraph (A)(i) of the Senate.

(3) Protection of identity of individuals receiving awards and settlements

In preparing, submitting, and publishing the reports required under paragraph (1), the Office shall ensure that the identity or position of any claimant is not disclosed.

(4) Authority to protect the identity of a claimant

(A) In general

In carrying out paragraph (3), the Executive Director, in consultation with the Board, may make an appropriate redaction to the data included in the report described in paragraph (1) if the Executive Director, in consultation with the Board, determines that including the data considered for redaction may lead to the identity or position of a claimant unintentionally being disclosed. The report shall note each redaction and include a statement that the redaction was made solely for the purpose of avoiding such an unintentional disclosure of the identity or position of a claimant.

(B) Recordkeeping

The Executive Director shall retain a copy of the report described in paragraph (1), without redactions.

(5) Definition

In this subsection, the term "claimant" means an individual who received an award or settlement, or who made an allegation of a violation against an employing office, under part A of subchapter II.

(m) Record retention

The Office shall establish and maintain a program for the permanent retention of its records, including the records of preliminary reviews, mediations, hearings, and other proceedings conducted under subchapter IV.

(Pub. L. 104–1, title III, §301, Jan. 23, 1995, 109 Stat. 24; Pub. L. 108–349, §1(a), Oct. 21, 2004, 118 Stat. 1389; Pub. L. 110–161, div. H, title I, §1101(a), Dec. 26, 2007, 121 Stat. 2237; Pub. L. 110–164, §1, Dec. 26, 2007, 121 Stat. 2459; Pub. L. 113–235, div. H, title I, §1001, Dec. 16, 2014, 128 Stat. 2530; Pub. L. 115–19, §1(c), (d), Apr. 3, 2017, 131 Stat. 85; Pub. L. 115–397, title II, §§201(a)(1), 203, title III, §308(a), Dec. 21, 2018, 132 Stat. 5315, 5318, 5325.)

REFERENCES IN TEXT

The Federal Regulation of Lobbying Act, referred to in subsec. (d)(2)(A), is title III of act Aug. 2, 1946, ch. 753, 60 Stat. 839, which was classified generally to chapter 8A (§261 et seq.) of this title prior to repeal by Pub. L. 104–65, §11(a), Dec. 19, 1995, 109 Stat. 701. See section 1601 et seq. of this title.

This chapter, referred to in subsec. (h)(3), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Ethics in Government Act of 1978, referred to in subsec. (k), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5 and Tables.

Part A of subchapter II, referred to in subsec. (l)(1)(A), (B)(ii)(II), (5), was in the original "part A of title II", meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

AMENDMENTS

2018—Pub. L. 115–397, §308(a)(1), substituted "Office of Congressional Workplace Rights" for "Office of Compliance" in section catchline.

Subsec. (a). Pub. L. 115–397, §308(a)(2), substituted "Office of Congressional Workplace Rights" for "Office of Compliance".

Subsec. (h)(3). Pub. L. 115–397, §201(a)(1)(A), substituted "claim" for "complaint" wherever appearing.

Subsec. (l). Pub. L. 115–397, §201(a)(1)(B), added subsec. (l).

Subsec. (m). Pub. L. 115–397, §203, added subsec. (m).

2017—Subsec. (b). Pub. L. 115–19, §1(d), inserted ", who are authorized to take such steps as they consider appropriate to ensure the timely appointment of the members of the Board consistent with the requirements of this section" after "and the Senate".

Subsec. (e)(3). Pub. L. 115–19, §1(c), added par. (3).

2014—Subsec. (h)(2). Pub. L. 113–235 substituted "covered employees by the end of each fiscal year" for "the residences of covered employees".

2007—Subsec. (d)(2)(B). Pub. L. 110–164 substituted "legislative branch (other than the Office)," for "legislative branch,".

Subsec. (g)(1). Pub. L. 110–161 added par. (1) and struck out heading and text of former par. (1). Text read as follows: "Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties."

2004—Subsec. (e)(1). Pub. L. 108–349 amended second sentence generally. Prior to amendment, second sentence read as follows: "A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office."

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–397, title II, §201(a)(2), Dec. 21, 2018, 132 Stat. 5316, provided that: "The amendment made by paragraph (1)(B) [amending this section] shall take effect on January 1, 2019."

Pub. L. 115–397, title III, §308(d), Dec. 21, 2018, 132 Stat. 5326, provided that: "The amendments made by this section [amending this section and sections 1301, 1331, 1341, 1351, and 1384 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2018]. Any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date shall be considered to refer and apply to the Office of Congressional Workplace Rights."

Except as otherwise provided, amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–349, §1(b), Oct. 21, 2004, 118 Stat. 1389, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to individuals serving on the Board of Directors of the Office of Compliance on or after September 30, 2004."

APPOINTMENT OF MEMBERS OF BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE [NOW OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS]

Pub. L. 115–19, §1(a), (b), Apr. 3, 2017, 131 Stat. 84, provided that:

"(a) APPOINTMENT OF MEMBERS.—

"(1) MEMBERS REPLACING MEMBERS WHOSE TERMS EXPIRE IN MARCH 2017.—

Notwithstanding the first sentence of section 301(e) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)), of the members of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] who are appointed to replace the 3 members whose terms expire in March 2017—

"(A) one shall have a term of office of 3 years; and

"(B) 2 shall have a term of office of 4 years,

"as designated at the time of appointment by the persons specified in section 301(b) of such Act (2 U.S.C. 1381(b)).

"(2) MEMBERS REPLACING MEMBERS WHOSE TERMS EXPIRE IN MAY 2017.—In accordance with the first sentence of section 301(e) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)), the members of the Board of Directors of the Office of Compliance [now

Office of Congressional Workplace Rights] who are appointed to replace the 2 members whose terms expire in May 2017 shall each have a term of office of 5 years.

"(b) SERVICE OF CURRENT MEMBERS.—Notwithstanding the second sentence of section 301(e) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)) or section 3 of the Office of Compliance Administrative and Technical Corrections Act of 2015 (Public Law 114–6; 2 U.S.C. 1381 note)—

"(1) an individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] whose term expires in March 2017 may be reappointed to serve one additional term at the length designated under paragraph (1) of subsection (a), but may not be reappointed to any additional terms after that additional term expires; and

"(2) an individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] whose term expires in May 2017 may be reappointed to serve one additional term at the length referred to in paragraph (2) of subsection (a), but may not be reappointed to any additional terms after that additional term expires."

Pub. L. 114–6, §3, Mar. 20, 2015, 129 Stat. 82, provided that: "Notwithstanding section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)), any individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] as of February 28, 2015, may be appointed to serve for one additional term of 2 years."

Pub. L. 111–114, §1, Dec. 14, 2009, 123 Stat. 3028, provided that: "Notwithstanding the second sentence of section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)), any individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] as of September 30, 2009, may serve for 3 terms."

¹ See References in Text note below.

² See Change of Name note below.

§1382. Officers, staff, and other personnel

(a) Executive Director

(1) Appointment and removal

(A) In general

The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) Qualifications

The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 1302(a) of this title.

(C) Disqualifications

The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of the Executive Director.

(2) Compensation

(A) Authority to fix compensation

The Chair may fix the compensation of the Executive Director.

(B) Limitation

The rate of pay for the Executive Director may not exceed the lesser of—
(i) the highest annual rate of compensation of any officer of the Senate; or
(ii) the highest annual rate of compensation of any officer of the House of Representatives.

(3) Term

The term of office of the Executive Director shall be not more than 2 terms of 5 years, except that the first Executive Director shall have a single term of 7 years.

(4) Duties

The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this chapter, the Executive Director shall carry out all of the responsibilities of the Office under this chapter.

(b) Deputy Executive Directors

(1) In general

The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of a Deputy Executive Director.

(2) Term

The term of office of a Deputy Executive Director shall be not more than 2 terms of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

(3) Compensation

(A) Authority to fix compensation

The Chair may fix the compensation of the Deputy Executive Directors.

(B) Limitation

The rate of pay for a Deputy Executive Director may not exceed 96 percent of the lesser of—
(i) the highest annual rate of compensation of any officer of the Senate; or
(ii) the highest annual rate of compensation of any officer of the House of Representatives.

(4) Duties

The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 1384(a)(2)(B)(i) of this title, maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 1384(a)(2)(B)(ii) of this title, maintain

the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

(c) General Counsel

(1) In general

The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of a General Counsel.

(2) Compensation

(A) Authority to fix compensation

The Chair may fix the compensation of the General Counsel.

(B) Limitation

The rate of pay for the General Counsel may not exceed the lesser of—

- (i) the highest annual rate of compensation of any officer of the Senate; or
- (ii) the highest annual rate of compensation of any officer of the House of Representatives.

(3) Duties

The General Counsel shall—

- (A) exercise the authorities and perform the duties of the General Counsel as specified in this chapter; and
- (B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this chapter.

(4) Attorneys in the office of the General Counsel

The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

(5) Term

The term of office of the General Counsel shall be not more than 2 terms of 5 years.

(6) Removal

(A) Authority

The General Counsel may be removed from office by the Chair but only for—

- (i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,
- (ii) incompetence,
- (iii) neglect of duty,
- (iv) malfeasance, including a felony or conduct involving moral turpitude, or
- (v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

(B) Statement of reasons for removal

In removing the General Counsel, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

(d) Confidential advisors

(1) In general

The Executive Director shall—

(A) appoint, and fix the compensation of, and may remove, 1 or more confidential advisors to carry out the duties described in this subsection; or

(B) designate 1 or more employees of the Office to serve as a confidential advisor.

(2) Duties

(A) Voluntary services

A confidential advisor appointed or designated under paragraph (1) shall offer to provide to covered employees described in paragraph (4) the services described in subparagraph (B), which a covered employee may accept or decline.

(B) Services

The services referred to in subparagraph (A) are—

(i) informing, on a privileged and confidential basis, a covered employee who has been subject to a practice that may be a violation of part A of subchapter II about the employee's rights under this chapter;

(ii) consulting, on a privileged and confidential basis, with a covered employee who has been subject to a practice that may be a violation of part A of subchapter II regarding—

(I) the roles, responsibilities, and authority of the Office; and

(II) the relative merits of securing private counsel, designating a non-attorney representative, or proceeding without representation for proceedings before the Office;

(iii) advising and consulting with, on a privileged and confidential basis, a covered employee who has been subject to a practice that may be a violation of part A of subchapter II regarding any claims the covered employee may have under subchapter IV, the factual allegations that support each such claim, and the relative merits of the procedural options available to the employee for each such claim;

(iv) assisting, on a privileged and confidential basis, a covered employee who seeks consideration under title IV of an allegation of a violation of part A of subchapter II in understanding the procedures, and the significance of the procedures, described in subchapter IV, including—

(I) assisting or consulting with the covered employee regarding the drafting of a claim to be filed under section 1402(a) of this title; and

(II) consulting with the covered employee regarding the procedural options available to the covered employee after a claim is filed, and the relative merits of each option; and

(v) informing, on a privileged and confidential basis, a covered employee who has been subject to a practice that may be a violation of part A of subchapter II about the option of pursuing, in appropriate circumstances, a complaint with the Committee on Ethics of the House of Representatives or the Select Committee on Ethics of the Senate.

(C) Continuity of service

Once a covered employee has accepted and received any services offered under this section from a confidential advisor appointed or designated under paragraph (1), any other

services requested under this subsection by the covered employee shall be provided, to the extent practicable, by the same confidential advisor.

(3) Qualifications

A confidential advisor appointed or designated under paragraph (1) shall be a lawyer who—

(A) is admitted to practice before, and is in good standing with, the bar of a State of the United States, the District of Columbia, or a territory of the United States; and

(B) has experience representing clients in cases involving the workplace laws incorporated by part A of subchapter II.

(4) Individuals covered

The services described in paragraph (2) are available to any covered employee (which, for purposes of this subsection, shall include any staff member described in section 1311(d) of this title and any former covered employee (including any such former staff member)), except that—

(A) a former covered employee may only request such services if the practice that may be a violation of part A of subchapter II occurred during the employment or service of the employee; and

(B) a covered employee described in this paragraph may only request such services before the expiration of the 180-day period described in section 1402(d) of this title.

(5) Restrictions

A confidential advisor appointed or designated under paragraph (1)—

(A) shall not act as the designated representative for any covered employee in connection with the covered employee's participation in any proceeding, including any proceeding under this chapter, any judicial proceeding, or any proceeding before any committee of Congress;

(B) shall not offer or provide services described in paragraph (2)(B) to a covered employee if the covered employee has designated an attorney representative in connection with the covered employee's participation in any proceeding under this chapter, except that a confidential advisor may provide general assistance and information to such attorney representative regarding this chapter and the role of the Office as the confidential advisor determines appropriate; and

(C) shall not serve as a mediator in any mediation conducted pursuant to section 1403 of this title.

(e) Other staff

The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(f) Detailed personnel

The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the Government Accountability Office Personnel Appeals Board.

(g) Consultants

In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

(Pub. L. 104–1, title III, §302, Jan. 23, 1995, 109 Stat. 26; Pub. L. 110–161, div. H, title I, §1101(b), Dec. 26, 2007, 121 Stat. 2237; Pub. L. 110–164, §2(a), Dec. 26, 2007, 121 Stat. 2459; Pub. L. 115–397, title II, §204, Dec. 21, 2018, 132 Stat. 5318.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4), (c)(3), and (d)(2)(B)(i), (5)(A), (B), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

Part A of subchapter II, referred to in subsec. (d)(2)(B), (3)(B), (4)(A), was in the original "part A of title II", meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

AMENDMENTS

2018—Subsecs. (d) to (g). Pub. L. 115–397 added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

2007—Subsec. (a)(2). Pub. L. 110–161, §1101(b)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5."

Subsec. (a)(3). Pub. L. 110–164, §2(a)(1), substituted "not more than 2 terms" for "a single term" the first time appearing.

Subsec. (b)(2). Pub. L. 110–164, §2(a)(2), substituted "not more than 2 terms" for "a single term" the first time appearing.

Subsec. (b)(3). Pub. L. 110–161, §1101(b)(2), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5."

Subsec. (c)(2). Pub. L. 110–161, §1101(b)(3), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5."

Subsec. (c)(5). Pub. L. 110–164, §2(a)(3), substituted "not more than 2 terms" for "a single term".

Subsec. (e). Pub. L. 110–161, §1101(b)(4), substituted "Government Accountability Office" for "General Accounting Office".

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–164, §2(b), Dec. 26, 2007, 121 Stat. 2459, provided that: "The amendments made by this section [amending this section] shall apply with respect to an individual who is first appointed to the position of Executive Director, Deputy Executive Director, or General Counsel of the Office of Compliance after the date of the enactment of this Act [Dec. 26, 2007]."

PERMITTING CURRENT EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTORS, AND GENERAL COUNSEL OF OFFICE OF COMPLIANCE [NOW OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS] TO SERVE ONE ADDITIONAL TERM

Pub. L. 109–38, §1, July 27, 2005, 119 Stat. 408, provided that:

"(a) Executive Director.—Notwithstanding section 302(a)(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1382(a)(3)), the individual serving as Executive Director of the Office of Compliance [now Office of Congressional Workplace Rights] as of the date of the enactment of this Act [July 27, 2005] may serve one additional term.

"(b) Deputy Executive Directors.—Notwithstanding section 302(b)(2) of such Act (2 U.S.C. 1382(b)(2)), any individual serving as a Deputy Executive Director of the Office of Compliance [now Office of Congressional Workplace Rights] as of the date of the enactment of this Act may serve one additional term.

"(c) General Counsel.—Notwithstanding section 302(c)(5) of such Act (2 U.S.C. 1382(c)(5)), the individual serving as General Counsel of the Office of Compliance [now Office of Congressional Workplace Rights] as of the date of the enactment of this Act may serve one additional term."

§1383. Procedural rules

(a) In general

The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

(b) Procedure

The Executive Director shall adopt rules referred to in subsection (a) in accordance with the principles and procedures set forth in section 553 of title 5. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Before adopting rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.

(Pub. L. 104–1, title III, §303, Jan. 23, 1995, 109 Stat. 28.)

§1384. Substantive regulations

(a) Regulations

(1) In general

The procedures applicable to the regulations of the Board issued for the implementation of this chapter, which shall include regulations the Board is required to issue under subchapter II (including regulations on the appropriate application of exemptions under the laws made applicable in subchapter II) are as prescribed in this section.

(2) Rulemaking procedure

Such regulations of the Board—

- (A) shall be adopted, approved, and issued in accordance with subsection (b); and
 - (B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—
 - (i) the Senate and employees of the Senate;
 - (ii) the House of Representatives and employees of the House of Representatives;
- and
- (iii) all other covered employees and employing offices.

(b) Adoption by Board

The Board shall adopt the regulations referred to in subsection (a)(1) in accordance with the principles and procedures set forth in section 553 of title 5 and as provided in the following provisions of this subsection:

(1) Proposal

The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i), the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii), and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii).

(2) Comment

Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

(3) Adoption

After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(4) Recommendation as to method of approval

The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

(c) Approval of regulations

(1) In general

Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the

House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution.

(2) Referral

Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

(3) Joint referral and discharge in the Senate

The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(4) One-House resolution or concurrent resolution

In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: "The following regulations issued by the Office of Congressional Workplace Rights on _____ are hereby approved:" (the blank space being appropriately filled in, and the text of the regulations being set forth).

(5) Joint resolution

In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: "The following regulations issued by the Office of Congressional Workplace Rights on _____ are hereby approved and shall have the force and effect of law:" (the blank space being appropriately filled in, and the text of the regulations being set forth).

(d) Issuance and effective date

(1) Publication

After approval of regulations under subsection (c), the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(2) Date of issuance

The date of issuance of regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

(3) Effective date

Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5) and published with the regulation.

(e) Amendment of regulations

Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or

urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5.

(f) Right to petition for rulemaking

Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

(g) Consultation

The Executive Director, the Deputy Directors, and the Board—

- (1) shall consult, with regard to the development of regulations, with—
 - (A) the Chair of the Administrative Conference of the United States;
 - (B) the Secretary of Labor;
 - (C) the Federal Labor Relations Authority; and
 - (D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board, the Executive Director, or Deputy Directors, may be helpful.

(Pub. L. 104–1, title III, §304, Jan. 23, 1995, 109 Stat. 29; Pub. L. 115–397, title III, §308(b)(12), (13), Dec. 21, 2018, 132 Stat. 5326.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1) after "implementation of", was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

Subchapter II, referred to in subsec. (a)(1), was in the original "title II", meaning title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to subchapter II of this chapter. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2018—Subsec. (c)(4), (5). Pub. L. 115–397 substituted "Office of Congressional Workplace Rights" for "Office of Compliance".

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115–397, set out as a note under section 1381 of this title.

§1385. Expenses

(a) Authorization of appropriations

Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following January 23, 1995—

- (1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and
- (2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate,

upon vouchers approved by the Executive Director, except that a voucher shall not be required for the disbursement of salaries of employees who are paid at an annual rate. The Clerk of the House of Representatives and the Secretary of the Senate are authorized to make arrangements for the division of expenses under this subsection, including arrangements for one House of Congress to reimburse the other House of Congress.

(b) Financial and administrative services

The Executive Director may place orders and enter into agreements for goods and services with the head of any agency, or major organizational unit within an agency, in the legislative or executive branch of the United States in the same manner and to the same extent as agencies are authorized under sections 1535 and 1536 of title 31 to place orders and enter into agreements.

(c) Witness fees and allowances

Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this chapter other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this chapter shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5.

(Pub. L. 104–1, title III, §305, Jan. 23, 1995, 109 Stat. 31.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

§1386. Disposition of surplus or obsolete personal property

The Executive Director may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding.

(Pub. L. 104–1, title III, §306, as added Pub. L. 111–68, div. A, title I, §1101(a), Oct. 1, 2009, 123 Stat. 2031.)

EFFECTIVE DATE

Pub. L. 111–68, div. A, title I, §1101(c), Oct. 1, 2009, 123 Stat. 2031, provided that: "The amendments made by this section [enacting this section] shall apply with respect to fiscal year 2010, and each fiscal year thereafter."

§1387. Semiannual report of disbursements

(a) Reports required

Not later than 60 days after the last day of each semiannual period of a fiscal year, the Executive Director of the Office of Compliance¹ shall submit to the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, with respect to that period, a detailed, itemized report of the disbursements for the operations of the Office of Compliance.¹

(b) Contents

(1) In general

The report required by subsection (a) shall include—

(A) the identification of each person who receives a payment from the Office of Compliance,¹ except that in the case of an individual, the identification shall be provided in a manner that does not identify the individual by name;

(B) the quantity and price of any item furnished to the Office of Compliance;¹

(C) a description of any service rendered to the Office of Compliance,¹ together with a statement of the time required for the service, and the name, title, and amount paid to each person who renders the service;

(D) a statement of all amounts appropriated to, or received or expended by, the Office of Compliance¹ and any unexpended balances of such amounts; and

(E) such additional information as may be required by regulation of the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, or the Committees on Appropriations of the House of Representatives or Senate.

(2) Exception for confidential information

The Executive Director of the Office of Compliance¹ may exclude from any report required by subsection (a) any information the disclosure of which would violate confidentiality policies of the Office of Compliance.¹

(c) Effective date

This section shall apply with respect to the semiannual periods of October 1 through March 31 and April 1 through September 30 of each fiscal year, beginning with fiscal year 2014.

(Pub. L. 113–76, div. I, title I, §1102, Jan. 17, 2014, 128 Stat. 425.)

CODIFICATION

Section was enacted as part of the Legislative Branch Appropriations Act, 2014, which is div. I of the Consolidated Appropriations Act, 2014, and not as part of the Congressional Accountability Act of 1995 which comprises this chapter.

CHANGE OF NAME

Office of Compliance changed, as of Dec. 21, 2018, and considered to refer and apply, to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115–397, set out as an Effective date of 2018 Amendment note under section 1381 of this title.

¹ *See Change of Name note below.*

§1388. Workplace climate surveys of employing offices

(a) Requirement to conduct secure surveys

Not later than 1 year after December 21, 2018, and every 2 years thereafter, the Office shall conduct a secure survey of employing offices under this chapter regarding the workplace environment of such offices. Employee responses to the survey shall be voluntary.

(b) Special inclusion of information on sexual harassment

In each survey conducted under this section, the Office shall survey respondents on attitudes regarding sexual harassment.

(c) Methodology

(1) In general

The Office shall conduct each survey under this section in accordance with methodologies established by the Office.

(2) Confidentiality

Under the methodologies established under paragraph (1), all responses to all portions of the survey shall be anonymous and confidential, and each respondent shall be told throughout the survey that all responses shall be anonymous and confidential.

(3) Survey form

The Office shall limit the use of any information code or information on the survey form that makes a respondent to the survey, or the respondent's employing office, individually identifiable.

(d) Use of results of surveys

The Office shall furnish the information obtained from the surveys conducted under this section to the Committee on House Administration of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Rules and Administration of the Senate.

(e) Consultation with committees

The Office shall carry out this section, including establishment of methodologies and procedures under subsection (c), in consultation with the Committee on House Administration of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Rules and Administration of the Senate.

(Pub. L. 104–1, title III, §307, as added Pub. L. 115–397, title II, §202(a), Dec. 21, 2018, 132 Stat. 5317.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

EFFECTIVE DATE

Section effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

SUBCHAPTER IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

§1401. Procedure for consideration of alleged violations

(a) Filing and review of claims

Except as otherwise provided, the procedure for consideration of an alleged violation of part A of subchapter II consists of—

(1) the filing of a claim by the covered employee alleging the violation, as provided in section 1402 of this title;

(2) the preliminary review of the claim, to be conducted by a hearing officer as provided in section 1402a of this title;

(3) mediation as provided in section 1403 of this title, if requested and agreed to by the parties under that section; and

(4) a formal hearing as provided in section 1405 of this title, subject to Board review as provided in section 1406 of this title and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 1407 of this title.

(b) Right of employee to file civil action

(1) Civil action

Only a covered employee who has filed a claim timely as provided in section 1402 of this title and who has not submitted a request for a hearing on the claim pursuant to section 1405(a) of this title may, during the period described in paragraph (3), file a civil action in a District Court of the United States with respect to the violation alleged in the claim, as provided in section 1408 of this title.

(2) Effect of filing civil action

Notwithstanding paragraph (2), (3), or (4) of subsection (a), if the covered employee files such a civil action—

(A) the preliminary review of the claim by the hearing officer as provided in section 1402a of this title shall terminate upon the filing of the action by the covered employee; and

(B) the procedure for consideration of the alleged violation shall not include any further review of the claim by the hearing officer as provided in section 1402a of this title.

(3) Period for filing civil action

The period described in this paragraph with respect to a claim is the 70-day period which begins on the date the covered employee files the claim under section 1402 of this title.

(4) Special rule for employees who fail to state a claim for which relief may be granted

Notwithstanding paragraph (3), if a covered employee receives a written notice from the hearing officer under section 1402a(d)(2) of this title that the employee has the right to file a civil action with respect to the claim in accordance with section 1408 of this title, the covered employee may file the civil action not later than 90 days after receiving such written notice.

(c) Special rule for Architect of the Capitol and Capitol Police

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Office, after receiving a claim filed under section 1402 of this title, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time. Any deadline in this chapter relating to a claim for which the employee is using the grievance procedures, that has not already passed by the first day of that specific period, shall be stayed during that specific period.

(d) Election of remedies for Library of Congress

(1) Definitions

In this subsection:

(A) Direct Act

The term "direct Act" means an Act (other than this chapter), or provision of the Revised Statutes, that is specified in section 1311, 1312, or 1313 of this title.

(B) Direct provision

The term "direct provision" means a provision (including a definitional provision) of a direct Act that applies the rights or protections of a direct Act (including rights and protections relating to nonretaliation or noncoercion) to a Library claimant.

(C) Library claimant

The term "Library claimant" means, with respect to a direct provision, an employee of the Library of Congress who is covered by that direct provision.

(2) Election after proceedings initially brought under this chapter

A Library claimant who initially files a claim for an alleged violation as provided in section 1402 of this title may, at any time before the date that is 10 days after a hearing officer submits the report on the preliminary review of the claim under section 1402a(c) of this title, elect to bring the claim for a proceeding before the corresponding Federal agency under the corresponding direct provision, instead of continuing with the procedures applicable to the claim under this subchapter or filing a civil action in accordance with section 1408 of this title.

(3) Election after proceedings initially brought under other civil rights or labor law

A Library claimant who initially brings a claim, complaint, or charge under a direct provision for a proceeding before a Federal agency may, prior to requesting a hearing under the agency's procedures, elect to—

(A) continue with the agency's procedures and preserve the option (if any) to bring any civil action relating to the claim, complaint, or charge, that is available to the Library claimant; or

(B) file a claim with the Office under section 1402 of this title and continue with the corresponding procedures of this subchapter available and applicable to a covered employee.

(4) Timing

A Library claimant who meets the initial deadline under section 1402(d) of this title for filing a claim under this subchapter, or any initial deadline for bringing a claim, complaint, or charge under the applicable direct provision, and then elects to change to alternative procedures as described in paragraph (2) or (3)(B), shall be considered to meet any initial deadline for the alternative procedures.

(5) Application

This subsection shall take effect and shall apply as described in section 153(c) of the Legislative Branch Appropriations Act, 2018 (Public Law 115–141) (except to the extent such section applies to any violation of section 1331 of this title or a provision of an Act specified in section 1331 of this title).

(e) Rights of parties to retain private counsel

Nothing in this chapter may be construed to limit the authority of any individual (including a covered employee, the head of an employing office, or an individual who is alleged to have committed personally an act which consists of a violation of part A of subchapter II) to retain counsel to protect the interests of the individual at any point during any of the procedures provided under this subchapter for the consideration of an alleged violation of part A of subchapter II, including as provided under section 1415(d)(8) of this title with respect to individuals subject to a reimbursement requirement of section 1415(d) of this title.

(f) Standards for assertions made by parties

Any party in any of the procedures provided under this subchapter, as well as any counsel or other person representing a party in any of such procedures, shall have an obligation to ensure that, to the best of the party's knowledge, information, and belief, as formed after an inquiry which is reasonable under the circumstances, each of the following is correct:

(1) No pleading, written motion, or other paper is presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of resolution of the matter.

(2) The claims, defenses, and other legal contentions the party advocates are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.

(3) The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further review or discovery.

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(g) Procedure

Nothing in this chapter shall be construed to supersede or limit section 1361(d)(2) of this title.

REFERENCES IN TEXT

Part A of subchapter II, referred to in text, was in the original "part A of title II", meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

AMENDMENTS

2018—Pub. L. 115–397 amended section generally. Prior to amendment, section related to procedure for consideration of alleged violations, consisting of three parts.

Par. (3). Pub. L. 115–141, §153(b)(1)(A), struck out "either" after "section 1404 of this title, of" in introductory provisions.

Par. (3)(C). Pub. L. 115–141, §153(b)(1)(B)–(D), added subpar. (C).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

§1402. Initiation of procedures

(a) Claim

(1) Filing of claim

To commence a proceeding under this subchapter, a covered employee alleging a violation of law made applicable under part A of subchapter II shall file a claim with the Office. The Office shall not accept a claim which is filed after the deadline applicable under subsection (d).

(2) Contents of claim

The claim filed under this section shall be made in writing under oath or affirmation, shall describe the facts that form the basis of the claim and the violation that is being alleged, shall identify the employing office alleged to have committed the violation or in which the violation is alleged to have occurred, and shall be in such form as the Office requires.

(3) No effect on ability of covered employee to seek information from office or pursue relief

Nothing in paragraph (2), or subsection (b) or (c), may be construed to limit the ability of a covered employee—

(A) to contact the Office or any other appropriate office prior to filing a claim under this section to seek information regarding the employee's rights under this chapter and the procedures available under this chapter;

(B) in the case of a covered employee of an employing office of the House of Representatives or Senate, to refer information regarding an alleged violation of part A of subchapter II to the Committee on Ethics of the House of Representatives or the Select Committee on Ethics of the Senate (as the case may be); or

(C) to file a civil action in accordance with section 1401(b) of this title.

(b) Initial processing of claim

(1) Intake and recording; notification to employing office

Upon the filing of a claim by a covered employee under subsection (a), the Office shall take such steps as may be necessary for the initial intake and recording of the claim, including providing each party with all relevant information with respect to the rights of the party under this chapter, and shall transmit immediately a copy of the claim to the head of the employing office and the designated representative of that office.

(2) Special notification requirements for claims based on acts by Members of Congress

(A) In general

In the case of a claim alleging a violation described in subparagraph (B) which consists of a violation described in section 1415(d)(1)(A) of this title by an individual, upon the filing of the claim under subsection (a), the Office shall notify immediately such individual of the claim, the possibility that the individual may be required to reimburse the account described in section 1415(a) of this title for the reimbursable portion of any award or settlement in connection with the claim, and the right of the individual under section 1415(d)(8) of this title to intervene in any mediation, hearing, or civil action under this subchapter with respect to the claim.

(B) Violations described

A violation described in this subparagraph is—

(i) harassment that is unlawful under section 1311(a) or 1316(a) of this title; or

(ii) intimidation, reprisal, or discrimination that is unlawful under section 1317 of this title and is taken against a covered employee because of a claim alleging a violation described in clause (i).

(c) Use of secure electronic reporting and tracking system

(1) Establishment and operation of secure system

The Office shall establish and operate a secure electronic reporting system through which a covered employee may initiate a proceeding under this subchapter, and which will keep an electronic record of the date and time at which the proceeding is initiated and will track all subsequent actions or proceedings occurring with respect to the proceeding under this subchapter.

(2) Accessibility to all parties

The system shall be accessible to all parties to such actions or proceedings, but only until the completion of such actions or proceedings.

(3) Assessment of effectiveness of procedures

The Office shall use the information contained in the system to make regular assessments of the effectiveness of the procedures under this subchapter in providing for the timely resolution of claims, and shall submit semi-annual reports on such assessments each year to

the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

(d) Deadline

A covered employee may not file a claim under this section with respect to an allegation of a violation of law after the expiration of the 180-day period which begins on the date of the alleged violation.

REFERENCES IN TEXT

Part A of subchapter II, referred to in subsec. (a), was in the original "part A of title II", meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

AMENDMENTS

2018—Pub. L. 115–397 amended section generally. Prior to amendment, section related to counseling prior to commencing a proceeding.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

§1402a. Preliminary review of claims

(a) Preliminary review by hearing officer

(1) Appointment

Not later than 7 days after transmission to the employing office of a claim pursuant to section 1402(b) of this title, the Executive Director shall appoint a hearing officer to conduct a preliminary review of the claim.

(2) Process for appointment

The Executive Director shall appoint a hearing officer under this subsection in the same manner and in accordance with the same requirements and procedures applicable to the appointment of a hearing officer under section 1405(c) of this title.

(b) Assessments required

In conducting a preliminary review of a claim under this section, the hearing officer shall assess each of the following:

- (1) Whether the claimant is a covered employee authorized to obtain relief relating to the claim under this subchapter.
- (2) Whether the office which is the subject of the claim is an employing office under this chapter.
- (3) Whether the individual filing the claim has met the applicable deadlines for filing the claim under this subchapter.
- (4) The identification of factual and legal issues involved with respect to the claim.
- (5) The specific relief sought by the individual.
- (6) Whether, on the basis of the assessments made under paragraphs (1) through (5), the individual filing the claim is a covered employee who has stated a claim for which, if the allegations contained in the claim are true, relief may be granted under this subchapter.
- (7) The potential for the settlement of the claim without a formal hearing as provided under section 1405 of this title or a civil action as provided under section 1408 of this title.

(c) Report on review

(1) Report

Not later than 30 days after a claim is filed under section 1402 of this title, the hearing officer shall submit to the individual filing the claim and the office which is the subject of the claim a report on the preliminary review conducted under this section, and shall include in the report the hearing officer's determination as to whether the individual is a covered employee who has stated a claim for which relief may be granted under this subchapter (as described in paragraph (6) of subsection (b)). The submission of the report shall conclude the preliminary review.

(2) Extension of deadline

The hearing officer may (upon notice to the individual filing the claim and the employing office which is the subject of the claim) use an additional period of not to exceed 30 days to conclude the preliminary review.

(d) Effect of determination of failure to state claim for which relief may be granted

If the hearing officer's report on the preliminary review of a claim under subsection (c) includes the determination that the individual filing the claim is not a covered employee or has not stated a claim for which relief may be granted under this subchapter—

(1) the individual (including an individual who is a Library claimant, as defined in section 1401(d)(1) of this title) may not obtain a formal hearing with respect to the claim as provided under section 1405 of this title; and

(2) the hearing officer shall provide the individual and the Executive Director with a written notice that the individual may file a civil action with respect to the claim in accordance with section 1408 of this title.

(e) Transmission of report on preliminary review of certain claims to congressional ethics committees

In the case of a hearing officer's report under subsection (c) on the preliminary review of a claim alleging a violation described in section 1415(d)(1)(A) of this title, the hearing officer shall transmit the report to—

(1) the Committee on Ethics of the House of Representatives, in the case of such an act by a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress); or

(2) the Select Committee on Ethics of the Senate, in the case of such an act by a Senator.

(Pub. L. 104–1, title IV, §403, as added Pub. L. 115–397, title I, §103(a), Dec. 21, 2018, 132 Stat. 5303.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

PRIOR PROVISIONS

A prior section 403 of Pub. L. 104–1 was renumbered section 404 and is classified to section 1403 of this title.

EFFECTIVE DATE

Section effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

§1403. Mediation

(a) Availability of mediation

(1) Notification regarding mediation

(A) Covered employee

Upon receipt of a claim under section 1402 of this title, the Office shall notify the covered employee who filed the claim about the process for mediation under this section and the deadlines applicable to such mediation.

(B) Employing office

Upon transmission to the employing office of the claim pursuant to section 1402(b) of this title, the Office shall notify the employing office about the process for mediation under this section and the deadlines applicable to such mediation.

(2) Initiation

(A) In general

During the period described in subparagraph (B), either the covered employee who filed a claim under section 1402 of this title or the employing office named in the claim may file a request for mediation with the Office, which shall promptly notify the other party. If the other party agrees to the request, the Office shall promptly assign a mediator to the claim, and conduct mediation under this section.

(B) Timing

A covered employee or an employing office may file a request for mediation under subparagraph (A) during the period beginning on the date that the covered employee or employing office, respectively, receives a notification under paragraph (1) regarding a claim under section 1402 of this title and ending on the date on which a hearing officer issues a written decision relating to the claim under section 1405(g) of this title or the covered employee files a civil action with respect to the claim in accordance with section 1408 of this title, as applicable.

(3) Failure to request or accept mediation to have no effect on treatment of claim

The failure of a party to request mediation under this section with respect to a claim, or the failure of a party to agree to a request for mediation under this section, may not be taken into consideration under any procedure under this subchapter with respect to the claim, including a preliminary review under section 1402a of this title, a formal hearing under section 1405 of this title, or a civil action under section 1408 of this title.

(b) Process

Mediation under this section—

(1) may include the Office, the covered employee, the employing office, and one or more individuals appointed by the Executive Director from the master list developed and maintained under subsection (e), and

(2) shall involve meetings with the parties during which, at the request of any of the parties, the parties shall be separated, for the purpose of resolving the dispute between the covered employee and the employing office.

(c) Mediation period

The mediation period shall be 30 days, beginning on the first day after the second party agrees to the request for the mediation. The mediation period may be extended for one additional period of 30 days at the joint request of the covered employee and employing office. Any deadline in this chapter relating to a claim for which mediation has been agreed to in this

section, that has not already passed by the first day of the mediation period, shall be stayed during the mediation period. The Office shall notify in writing the covered employee and the employing office when the mediation period has ended.

(d) Independence of mediation process

No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 1405 of this title with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

(e) Master list of mediators

(1) Development and maintenance of master list

The Executive Director shall develop and maintain a master list of individuals who are experienced in adjudicating, arbitrating, or mediating the kinds of personnel and other matters for which mediation may be held under this section. Such list may include, but not be limited to, members of the bar of a State or the District of Columbia and retired judges of the United States courts.

(2) Consideration of candidates

In developing the master list under this subsection, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(Pub. L. 104–1, title IV, §404, formerly §403, Jan. 23, 1995, 109 Stat. 32; Pub. L. 114–6, §2(a), Mar. 20, 2015, 129 Stat. 81; renumbered §404 and amended Pub. L. 115–397, title I, §§101(c)(2), 104, Dec. 21, 2018, 132 Stat. 5301, 5305.)

PRIOR PROVISIONS

A prior section 404 of Pub. L. 104–1 was classified to section 1404 of this title, prior to repeal by Pub. L. 115–397, title I, §101(c)(1), Dec. 21, 2018, 132 Stat. 5301.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–397, §104(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "Not later than 15 days after receipt by the employee of notice of the end of the counseling period under section 1402 of this title, but prior to and as a condition of making an election under section 1404 of this title, the covered employee who alleged a violation of a law shall file a request for mediation with the Office."

Subsec. (b)(2). Pub. L. 115–397, §104(b), substituted "meetings with the parties during which, at the request of any of the parties, the parties shall be separated," for "meetings with the parties separately or jointly".

Subsec. (c). Pub. L. 115–397, §104(c), substituted "The mediation period shall be 30 days, beginning on the first day after the second party agrees to the request for the mediation. The mediation period may be extended for one additional period of 30 days at the joint request of the covered employee and employing office. Any deadline in this chapter relating to a claim for which mediation has been agreed to in this section, that has not already passed by the first day of the mediation period, shall be stayed during the mediation period." for "The mediation period shall be 30 days beginning on the date the request for mediation is received. The mediation period may be extended for additional periods at the joint request of the covered employee and the employing office."

2015—Subsec. (b)(1). Pub. L. 114–6, §2(a)(1), substituted "from the master list developed and maintained under subsection (e)" for "after considering recommendations by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters".

Subsec. (e). Pub. L. 114–6, §2(a)(2), added subsec. (e).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–6, §2(d), Mar. 20, 2015, 129 Stat. 82, provided that: "The amendments made by this section [amending this section and sections 1404 and 1416 of this title] shall apply with respect to mediations and other proceedings which are first initiated after the date of the enactment of this Act [Mar. 20, 2015]."

§1404. Repealed. Pub. L. 115–397, title I, §101(c)(1), title IV, §401, Dec. 21, 2018, 132 Stat. 5301, 5327

Section 1404, Pub. L. 104–1, title IV, §404, Jan. 23, 1995, 109 Stat. 33, related to election of proceeding.

EFFECTIVE DATE OF REPEAL

Repeal effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

§1405. Hearing

(a) Requirement for hearings to commence in Office

(1) Hearing required upon request

"If, not later than 10 days after a hearing officer submits the report on the preliminary review of a claim under section 1402a(c) of this title, a covered employee submits a request to the Executive Director for a hearing under this section, the Executive Director shall appoint an independent hearing officer pursuant to subsection (c) to consider the claim and render a decision, and a hearing shall be commenced in the Office.

(2) Exceptions

"Paragraph (1) does not apply with respect to the claim if—

(A) the hearing officer's report on the preliminary review of the claim under section 1402a(c) of this title includes the determination that the individual filing the claim is not a covered employee who has stated a claim for which relief may be granted under this subchapter (as described in section 1402a(d) of this title); or

(B) the covered employee files a civil action as provided in section 1408 of this title with respect to the claim."

(b) Dismissal

A hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(c) Hearing officer

(1) Appointment

Upon the filing of a request for a hearing under subsection (a), the Executive Director shall appoint an independent hearing officer to consider the request for a hearing under subsection (a) and render a decision. No Member of the House of Representatives, Senator, officer of

either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer. The Executive Director shall select hearing officers on a rotational or random basis from the lists developed under paragraph (2). Nothing in this section shall prevent the appointment of hearing officers as full-time employees of the Office or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(2) Lists

The Executive Director shall develop master lists, composed of—

(A) members of the bar of a State or the District of Columbia and retired judges of the United States courts who are experienced in adjudicating or arbitrating the kinds of personnel and other matters for which hearings may be held under this chapter, and

(B) individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health.

In developing lists, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(3) Prohibiting hearing officer conducting preliminary review from conducting hearing

"The Executive Director may not appoint a hearing officer to conduct a hearing under this section with respect to a claim if the hearing officer conducted the preliminary review with respect to the claim under section 1402a of this title."

(d) Hearing

Unless a claim is dismissed before a hearing, a hearing shall be—

(1) conducted in closed session on the record by the hearing officer;

(2) commenced no later than 90 days after the Executive Director receives the covered employee's request for the hearing under subsection (a), except that, upon mutual agreement of the parties or for good cause, the Office shall extend the time for commencing a hearing for not more than an additional 30 days; and

(3) conducted, except as specifically provided in this chapter and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5.

(e) Discovery

Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) Subpoenas

(1) In general

At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) Objections

If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) Enforcement

(A) In general

If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

(B) Service of process

Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

(g) Decision

The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 90 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the claim, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to subchapter II. The decision shall be entered in the records of the Office. If a decision is not appealed under section 1406 of this title to the Board, the decision shall be considered the final decision of the Office.

(h) Precedents

A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the laws made applicable by section 1302 of this title and by Board decisions under this chapter.

(Pub. L. 104–1, title IV, §405, Jan. 23, 1995, 109 Stat. 33; Pub. L. 115–397, title I, §103(b)–(e), Dec. 21, 2018, 132 Stat. 5304, 5305.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(2)(A), (d)(3), and (h), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3 which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

Rule 45(b) of the Federal Rules of Civil Procedure, referred to in subsec. (f)(1), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Subchapter II, referred to in subsec. (g), was in the original "title II", meaning title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to subchapter II of this chapter. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2018—Pub. L. 115–397, §103(e)(1), struck out "Complaint and" before "Hearing" in section catchline.

Subsec. (a). Pub. L. 115–397, §103(b), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to filing complaints by covered employees after completion of mediation under former section 1403 of this title.

Subsec. (c)(1). Pub. L. 115–397, §103(e)(2), which directed substitution of "request for a hearing under subsection (a)" for "complaint", was executed by making the substitution both places it appeared, to reflect the probable intent of Congress.

Subsec. (c)(3). Pub. L. 115–397, §103(c), added par. (3).

Subsec. (d). Pub. L. 115–397, §103(e)(3), substituted "claim" for "complaint" in introductory provisions.

Subsec. (d)(2). Pub. L. 115–397, §103(d), added par. (2) and struck out former par. (2) which read as follows: "commenced no later than 60 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 30 days the time for commencing a hearing; and".

Subsec. (g). Pub. L. 115–397, §103(e)(4), substituted "claim" for "complaint".

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

§1406. Appeal to Board

(a) In general

Any party aggrieved by the decision of a hearing officer under section 1405(g) of this title may file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office.

(b) Parties' opportunity to submit argument

The parties to the hearing upon which the decision of the hearing officer was made shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) Standard of review

The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;
- (2) not made consistent with required procedures; or
- (3) unsupported by substantial evidence.

(d) Record

In making determinations under subsection (c), the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) Decision

The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision.

(Pub. L. 104–1, title IV, §406, Jan. 23, 1995, 109 Stat. 35.)

§1407. Judicial review of Board decisions and enforcement

(a) Jurisdiction

(1) Judicial review

The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of—

(A) a party aggrieved by a final decision of the Board under section 1406(e) of this title in cases arising under part A of subchapter II,

(B) a charging individual or a respondent before the Board who files a petition under section 1331(d)(4) of this title,

(C) the General Counsel or a respondent before the Board who files a petition under section 1341(c)(5) of this title, or

(D) the General Counsel or a respondent before the Board who files a petition under section 1351(c)(3) of this title.

The court of appeals shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) Enforcement

The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 1405(g) or 1406(e) of this title with respect to a violation of part A, B, C, or D of subchapter II.

(b) Procedures

(1) Respondents

(A) In any proceeding commenced by a petition filed under subsection (a)(1)(A) or (B), or filed by a party other than the General Counsel under subsection (a)(1)(C) or (D), the Office shall be named respondent and any party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(B) In any proceeding commenced by a petition filed by the General Counsel under subsection (a)(1)(C) or (D), the prevailing party in the final decision entered under section 1406(e) of this title shall be named respondent, and any other party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(C) In any proceeding commenced by a petition filed under subsection (a)(2), the party under section 1405 or 1406 of this title that the General Counsel determines has failed to comply with a final decision under section 1405(g) or 1406(e) of this title shall be named respondent.

(2) Intervention

Any party that participated in the proceedings before the Board under section 1406 of this title and that was not made respondent under paragraph (1) may intervene as of right.

(c) Law applicable

Chapter 158 of title 28 shall apply to judicial review under paragraph (1) of subsection (a), except that—

(1) with respect to section 2344 of title 28, service of a petition in any proceeding in which the Office is a respondent shall be on the General Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 1406(e) of this title; and

(4) the Office shall be an "agency" as that term is used in chapter 158 of title 28.

(d) Standard of review

To the extent necessary for decision in a proceeding commenced under subsection (a)(1) and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board if it is determined that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(e) Record

In making determinations under subsection (d), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(Pub. L. 104–1, title IV, §407, Jan. 23, 1995, 109 Stat. 35.)

REFERENCES IN TEXT

Parts A, B, C, and D of subchapter II, referred to in subsec. (a), were in the original references to parts A (§§201–207), B (§210), C (§215), and D (§220), respectively, of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, 13, 16, 19, which are classified principally to parts A, B, C, and D, respectively, of subchapter II of this chapter. For complete classification of parts A, B, C, and D to the Code, see Tables.

§1408. Civil action

(a) Jurisdiction

The district courts of the United States shall have jurisdiction over any civil action commenced under section 1401 of this title and this section by a covered employee.

(b) Parties

The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

(c) Jury trial

Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this chapter. In any case in which a violation of section 1311 of this title is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 1311(b)(1) or 1311(b)(3) of this title.

(d) Appearances by House Employment Counsel

(1) In general

The House Employment Counsel of the House of Representatives and any other counsel in the Office of House Employment Counsel of the House of Representatives, including any counsel specially retained by the Office of House Employment Counsel, shall be entitled, for the purpose of providing legal assistance and representation to employing offices of the House of Representatives under this chapter, to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof without compliance with any requirements for admission to practice before such court, except that the

authorization conferred by this paragraph shall not apply with respect to the admission of any such person to practice before the United States Supreme Court.

(2) House Employment Counsel defined

In this subsection, the term "Office of House Employment Counsel of the House of Representatives" means—

(A) the Office of House Employment Counsel established and operating under the authority of the Clerk of the House of Representatives as of November 12, 2001;

(B) any successor office to the Office of House Employment Counsel which is established after November 12, 2001; and

(C) any other person authorized and directed in accordance with the Rules of the House of Representatives to provide legal assistance and representation to employing offices of the House of Representatives in connection with actions brought under this subchapter.

(Pub. L. 104–1, title IV, §408, Jan. 23, 1995, 109 Stat. 37; Pub. L. 107–68, title I, §119(a), Nov. 12, 2001, 115 Stat. 573; Pub. L. 115–397, title I, §101(b), Dec. 21, 2018, 132 Stat. 5300.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d)(1), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–397 substituted "section 1401 of this title" for "section 1404 of this title" and struck out "who has completed counseling under section 1402 of this title and mediation under section 1403 of this title. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation." after "covered employee".

2001—Subsec. (d). Pub. L. 107–68 added subsec. (d).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–68, title I, §119(b), Nov. 12, 2001, 115 Stat. 574, provided that: "The amendment made by this section [amending this section] shall apply with respect to proceedings occurring on or after the date of the enactment of this Act [Nov. 12, 2001]."

§1409. Judicial review of regulations

In any proceeding brought under section 1407 or 1408 of this title in which the application of a regulation issued under this chapter is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, except that with respect to regulations approved by a joint resolution under section 1384(c) of this title, only the provisions of section 706(2)(B) of title 5 shall apply. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

(Pub. L. 104–1, title IV, §409, Jan. 23, 1995, 109 Stat. 37.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

§1410. Other judicial review prohibited

Except as expressly authorized by sections 1407, 1408, and 1409 of this title, the compliance or noncompliance with the provisions of this chapter and any action taken pursuant to this chapter shall not be subject to judicial review.

(Pub. L. 104–1, title IV, §410, Jan. 23, 1995, 109 Stat. 37.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

§1411. Effect of failure to issue regulations

In any proceeding under section 1405, 1406, 1407, or 1408 of this title, except a proceeding to enforce section 1351 of this title with respect to offices listed under section 1351(e)(2) of this title, if the Board has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

(Pub. L. 104–1, title IV, §411, Jan. 23, 1995, 109 Stat. 37.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

§1412. Expedited review of certain appeals

(a) In general

An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this chapter.

(b) Jurisdiction

The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

(Pub. L. 104–1, title IV, §412, Jan. 23, 1995, 109 Stat. 38.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

§1413. Privileges and immunities

The authorization to bring judicial proceedings under sections 1405(f)(3), 1407, and 1408 of this title shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction.

(Pub. L. 104–1, title IV, §413, Jan. 23, 1995, 109 Stat. 38.)

§1414. Settlement

Any settlement entered into by the parties to a process described in section 1331, 1341, 1351, or 1401 of this title shall be in writing and not become effective unless it is approved by the Executive Director. Nothing in this chapter shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

(Pub. L. 104–1, title IV, §414, Jan. 23, 1995, 109 Stat. 38; Pub. L. 115–397, title I, §103(f), Dec. 21, 2018, 132 Stat. 5305.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

2018—Pub. L. 115–397 struck out "of complaints" after "Settlement" in section catchline.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

§1415. Payments

(a) Awards and settlements

Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this chapter. There are appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the Government Accountability Office or the Government Publishing Office.

(b) Compliance

Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this chapter.

(c) OSHA, accommodation, and access requirements

Funds to correct violations of section 1311(a)(3), 1331, or 1341 of this title may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds.

(d) Reimbursement by Members of Congress of amounts paid as settlements and awards

(1) Reimbursement required for certain violations

(A) In general

Subject to subparagraphs (B) and (D), if a payment is made from the account described in subsection (a) for an award or settlement in connection with a claim alleging a violation described in subparagraph (C) committed personally by an individual who, at the time of committing the violation, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, the individual shall reimburse the account for the amount of the award or settlement for the claim involved.

(B) Conditions

In the case of an award made pursuant to a decision of a hearing officer under section 1405 of this title, or a court in a civil action, subparagraph (A) shall apply only if the hearing officer or court makes a separate finding that a violation described in subparagraph (C) occurred which was committed personally by an individual who, at the time of committing the violation, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, and such individual shall reimburse the account for the amount of compensatory damages included in the award as would be available if awarded under section 1981a(b)(3) of title 42 irrespective of the size of the employing office. In the case of a settlement for a claim described in section 1416(d)(3) of this title, subparagraph (A) shall apply only if the conditions specified in section 1416(d)(3) of this title for requesting reimbursement are met.

(C) Violations described

A violation described in this subparagraph is—

- (i) harassment that is unlawful under section 1311(a) or 1316(a) of this title; or
- (ii) intimidation, reprisal, or discrimination that is unlawful under section 1317 of this title and is taken against a covered employee because of a claim alleging a violation described in clause (i).

(D) Multiple claims

If an award or settlement is made for multiple claims, some of which do not require reimbursement under this subsection, the individual described in subparagraph (A) shall only be required to reimburse for the amount (referred to in this chapter as the "reimbursable portion") that is—

- (i) described in subparagraph (A), subject to subparagraph (B); and
- (ii) included in the portion of the award or settlement attributable to a claim requiring reimbursement.

(2) Withholding amounts from compensation

(A) Establishment of timetable and procedures by committees

For purposes of carrying out subparagraph (B), the applicable Committee shall establish a timetable and procedures for the withholding of amounts from the compensation of an individual who is a Member of the House of Representatives or a Senator.

(B) Deadline

The payroll administrator shall withhold from an individual's compensation and transfer to the account described in subsection (a) (after making any deposit required under section 8432(f) of title 5) such amounts as may be necessary to reimburse the account described in subsection (a) for the reimbursable portion of the award or settlement described in paragraph (1) if the individual has not reimbursed the account as required under paragraph

(1) prior to the expiration of the 90-day period which begins on the date a payment is made from the account for such an award or settlement.

(C) Applicable Committee defined

In this paragraph, the term "applicable Committee" means—

- (i) the Committee on House Administration of the House of Representatives, in the case of an individual who, at the time of the withholding, is a Member of the House; or
- (ii) the Committee on Rules and Administration of the Senate, in the case of an individual who, at the time of the withholding, is a Senator.

(3) Use of amounts in Thrift Savings Fund as source of reimbursement

(A) In general

If, by the expiration of the 180-day period that begins on the date a payment is made from the account described in subsection (a) for an award or settlement described in paragraph (1), an individual who is subject to a reimbursement requirement of this subsection has not reimbursed the account for the entire reimbursable portion as required under paragraph (1), withholding and transfers of amounts shall continue under paragraph (2) if the individual remains employed in the same position, and the Executive Director of the Federal Retirement Thrift Investment Board shall make a transfer described in subparagraph (B).

(B) Transfers

The transfer by such Executive Director is a transfer, from the account of the individual in the Thrift Savings Fund to the account described in subsection (a), of an amount equal to the amount of that reimbursable portion of the award or settlement, reduced by—

- (i) any amount the individual has reimbursed, taking into account any amounts withheld under paragraph (2); and
- (ii) if the individual remains employed in the same position, any amount that the individual is scheduled to reimburse, taking into account any amounts to be withheld under the individual's timetable under paragraph (2).

(C) Initiation of transfer

Notwithstanding section 8435 of title 5, the Executive Director described in subparagraph (A) shall make the transfer under subparagraph (A) upon receipt of a written request to the Executive Director from the Secretary of the Treasury, in the form and manner required by the Executive Director.

(D) Coordination between payroll administrator and the Executive Director

The payroll administrator and the Executive Director described in subparagraph (A) shall carry out this paragraph in a manner that ensures the coordination of the withholding and transferring of amounts under this paragraph, in accordance with regulations promulgated by the Board under section 1383 of this title and such Executive Director.

(4) Administrative wage garnishment or other collection of wages from a subsequent position

(A) Individual subject to garnishment or other collection

Subparagraph (B) shall apply to an individual who is subject to a reimbursement requirement of this subsection if, at any time after the expiration of the 270-day period that begins on the date a payment is made from the account described in subsection (a) for an award or settlement described in paragraph (1), the individual—

- (i) has not reimbursed the account for the entire reimbursable portion as required under paragraph (1), through withholdings or transfers under paragraphs (2) and (3);

(ii) is not serving in a position as a Member of the House of Representatives or a Senator; and

(iii) is employed in a subsequent non-Federal position.

(B) Garnishment or other collection of wages

On the expiration of that 270-day period, the amount of the reimbursable portion of an award or settlement described in paragraph (1) (reduced by any amount the individual has reimbursed, taking into account any amounts withheld or transferred under paragraph (2) or (3)) shall be treated as a claim of the United States and transferred to the Secretary of the Treasury for collection. Upon that transfer, the Secretary of the Treasury shall collect the claim, in accordance with section 3711 of title 31, including by administrative wage garnishment of the wages of the individual described in subparagraph (A) from the position described in subparagraph (A)(iii). The Secretary of the Treasury shall transfer the collected amount to the account described in subsection (a).

(5) Notification to Office of Personnel Management and Secretary of the Treasury

(A) Individual subject to annuity or social security withholding

Subparagraph (B) shall apply to an individual subject to a reimbursement requirement of this subsection if, at any time after the expiration of the 270-day period described in paragraph (4)(A), the individual—

(i) has not served in a position as a Member of the House of Representatives or a Senator during the preceding 90 days; and

(ii) is not employed in a subsequent non-Federal position.

(B) Annuity or social security withholding

If, at any time after the 270-day period described in paragraph (4)(A), the individual described in subparagraph (A) has not reimbursed the account described in subsection (a) for the entire reimbursable portion of the award or settlement described in paragraph (1) (as determined by the Secretary of the Treasury), through withholdings, transfers, or collections under paragraphs (2) through (4), the Secretary of the Treasury (after consultation with the payroll administrator)—

(i) shall notify the Director of the Office of Personnel Management, who shall take such actions as the Director considers appropriate to withhold from any annuity payable to the individual under chapter 83 or chapter 84 of title 5 and transfer to the account described in subsection (a), such amounts as may be necessary to reimburse the account for the remainder of the reimbursable portion of an award or settlement described in paragraph (1); and

(ii) shall (if necessary), notwithstanding section 407 of title 42, take such actions as the Secretary of the Treasury considers appropriate to withhold from any payment to the individual under 42 U.S.C. 401 et seq. and transfer to the account described in subsection (a), such amounts as may be necessary to reimburse the account for the remainder of the reimbursable portion of an award or settlement described in paragraph (1).

(6) Coordination between OPM and Treasury

The Director of the Office of Personnel Management and the Secretary of the Treasury shall carry out paragraph (5) in a manner that ensures the coordination of the withholding and transferring of amounts under such paragraph, in accordance with regulations promulgated by the Director and the Secretary.

(7) Certification

Once the Executive Director determines that an individual who is subject to a reimbursement requirement of this subsection has reimbursed the account described in subsection (a) for the entire reimbursable portion, the Executive Director shall prepare a certification that the individual has completed that reimbursement, and submit the certification to—

(A) the Committees on House Administration and Ethics of the House of Representatives, in the case of an individual who, at the time of committing the act involved, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress); and

(B) the Select Committee on Ethics of the Senate, in the case of an individual who, at the time of committing the act involved, was a Senator.

(8) Right to intervene

An individual who is subject to a reimbursement requirement of this subsection shall have the unconditional right to intervene in any mediation, hearing, or civil action under this subchapter to protect the interests of the individual in the determination of whether an award or settlement described in paragraph (1) should be made, and the amount of any such award or settlement, except that nothing in this paragraph may be construed to require the covered employee who filed the claim to be deposed by counsel for the individual in a deposition that is separate from any other deposition taken from the employee in connection with the hearing or civil action.

(9) Definitions

In this subsection:

(A) Non-Federal position

The term "non-Federal position" means a position other than the position of an employee, as defined in section 2105(a) of title 5.

(B) Payroll administrator

The term "payroll administrator" means—

(i) in the case of an individual who is a Member of the House of Representatives, the Chief Administrative Officer of the House of Representatives, or an employee of the Office of the Chief Administrative Officer who is designated by the Chief Administrative Officer to carry out this subsection; or

(ii) in the case of an individual who is a Senator, the Secretary of the Senate, or an employee of the Office of the Secretary of the Senate who is designated by the Secretary to carry out this subsection.

(e) Reimbursement by employing offices

(1) Notification of payments made from account

As soon as practicable after the Executive Director is made aware that a payment of an award or settlement under this chapter has been made from the account described in subsection (a) in connection with a claim alleging a violation of section 1311(a) or 1316(a) of this title by an employing office (other than an employing office of the House of Representatives or an employing office of the Senate), the Executive Director shall notify the head of the employing office that the payment has been made, and shall include in the notification a statement of the amount of the payment.

(2) Reimbursement by office

Not later than 180 days after receiving a notification from the Executive Director under paragraph (1), the head of the employing office involved shall transfer to the account

described in subsection (a), out of any funds available for operating expenses of the office, a payment equal to the amount specified in the notification.

(3) Timetable and procedures for reimbursement

The head of an employing office shall transfer a payment under paragraph (2) in accordance with such timetable and procedures as may be established under regulations promulgated by the Office.

(Pub. L. 104–1, title IV, §415, Jan. 23, 1995, 109 Stat. 38; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113–76, div. I, title I, §1101(a), Jan. 17, 2014, 128 Stat. 425; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537; Pub. L. 115–141, div. I, title I, §153(a)(2)(E), Mar. 23, 2018, 132 Stat. 786; Pub. L. 115–397, title I, §§111(a), 115(a), Dec. 21, 2018, 132 Stat. 5306, 5314.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d)(1)(D), and (e)(1), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Social Security Act, referred to in subsec. (d)(5)(B)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–141 substituted "or" for comma after "Government Accountability Office" and struck out ", or the Library of Congress" before period at end.

Subsec. (d). Pub. L. 115–397, §111(a), added subsec. (d).

Subsec. (e). Pub. L. 115–397, §115(a), added subsec. (e).

2014—Subsec. (a). Pub. L. 113–76 substituted "There are appropriated for such account such sums as may be necessary to pay such awards and settlements." for "There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements."

2004—Subsec. (a). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in subsec. (a) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–397, title I, §111(c), Dec. 21, 2018, 132 Stat. 5311, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 8437 of Title 5, Government Organization and Employees] shall apply with respect to claims made on or after the date of the enactment of this Act [Dec. 21, 2018]."

Pub. L. 115–397, title I, §115(b), Dec. 21, 2018, 132 Stat. 5314, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to

payments made under section 415 of the Congressional Accountability Act of 1995 (2 U.S.C. 1415) for claims filed on or after the date of the enactment of this Act [Dec. 21, 2018]."

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–76, div. I, title I, §1101(b), Jan. 17, 2014, 128 Stat. 425, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal year 2014 and each succeeding fiscal year."

§1416. Confidentiality

(a) Mediation

All information discussed or disclosed in the course of any mediation shall be strictly confidential, and the Executive Director shall notify each person participating in the mediation of the confidentiality requirement and of the sanctions applicable to any person who violates the confidentiality requirement.

(b) Hearings and deliberations

Except as provided in subsections (c), (d), and (e), all proceedings and deliberations of hearing officers and the Board, including any related records, shall be confidential. This subsection shall not apply to proceedings under section 1341 of this title, but shall apply to the deliberations of hearing officers and the Board under that section. The Executive Director shall notify each person participating in a proceeding or deliberation to which this subsection applies of the requirements of this subsection and of the sanctions applicable to any person who violates the requirements of this subsection.

(c) Release of records for judicial action

The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 1407 of this title.

(d) Automatic referral to congressional ethics committee of dispositions of claims involving Members of Congress and senior staff

(1) Referral

Upon the final disposition under this subchapter (as described in paragraph (6)) of a claim alleging a violation described in section 1415(d)(1)(C) of this title committed personally by a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, or by a senior staff of the House of Representatives or Senate, the Executive Director shall refer the claim to—

(A) the Committee on Ethics of the House of Representatives, in the case of a Member or senior staff of the House; or

(B) the Select Committee on Ethics of the Senate, in the case of a Senator or senior staff of the Senate.

(2) Access to records and information

If the Executive Director refers a claim to a Committee under paragraph (1), the Executive Director shall provide the Committee with access to the records of any preliminary reviews, hearings, or decisions of the hearing officers and the Board under this chapter, and any information relating to an award or settlement paid, in response to such claim.

(3) Review by Senate ethics committee of settlements of certain claims

After the receipt of a settlement agreement for a claim that includes an allegation of a violation described in section 1415(d)(1)(C) of this title committed personally by a Senator, the Select Committee on Ethics of the Senate shall—

(A) not later than 90 days after that receipt, review the settlement agreement;

(B) determine whether an investigation of the claim is warranted; and

(C) if the Select Committee determines, after the investigation, that the claim that resulted in the settlement involved an actual violation described in section 1415(d)(1)(C) of this title committed personally by the Senator, then the Select Committee shall notify the Executive Director to request the reimbursement described in section 1415(d) of this title and include the settlement in the report required by section 1381(l) of this title.

(4) Protection of personally identifiable information

If a Committee to which a claim is referred under paragraph (1) issues a report with respect to the claim, the Committee shall ensure that the report does not directly disclose the identity or position of the individual who filed the claim.

(5) Committee authority to protect identity of a claimant

(A) Authority

If a Committee to which a claim is referred under paragraph (1) issues a report as described in paragraph (4) concerning a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, or a senior staff of the House of Representatives or Senate, the Committee may make an appropriate redaction to the information or data included in the report if the Chairman and Vice Chairman of the Committee reach agreement—

(i) that including the information or data considered for redaction may lead to the unintentional disclosure of the identity or position of a claimant; and

(ii) on the precise information or data to be redacted.

(B) Notation and statement

The report including any such redaction shall note each redaction and include a statement that the redaction was made solely for the purpose of avoiding such an unintentional disclosure of the identity or position of a claimant.

(C) Retention of reports

The Committee making a redaction in accordance with this paragraph shall retain a copy of the report, without a redaction.

(6) Final disposition described

In this subsection, the "final disposition" of a claim means any of the following:

(A) An order or agreement to pay an award or settlement, including an agreement reached pursuant to mediation under section 1403 of this title.

(B) A final decision of a hearing officer under section 1405(g) of this title that is no longer subject to review by the Board under section 1406 of this title.

(C) A final decision of the Board under section 1406(e) of this title that is no longer subject to appeal to the United States Court of Appeals for the Federal Circuit under section 1407 of this title.

(D) A final decision in a civil action under section 1408 of this title that is no longer subject to appeal.

(7) Senior staff defined

In this subsection, the term "senior staff" means any individual who, at the time a violation occurred, was required to file a report under title I of the Ethics in Government Act of 1978 (5 U.S.C. App. 101 et seq.).

(e) Final decisions

A final decision entered under section 1405(g) or 1406(e) of this title shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section

1331 of this title, or if the decision reverses a decision of a hearing officer which had been in favor of the covered employee or charging party. The Board may make public any other decision at its discretion.

(f) Claims

Nothing in this section may be construed to prohibit a covered employee from disclosing the factual allegations underlying the covered employee's claim, or to prohibit an employing office from disclosing the factual allegations underlying the employing office's defense to the claim, in the course of any proceeding under this subchapter.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–397, §114(b)(1), (2), redesignated subsec. (b) as (a) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) read as follows: "All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations."

Subsec. (b). Pub. L. 115–397, §114(b)(2), (3), redesignated subsec. (c) as (b) and substituted "subsections (c), (d), and (e)" for "subsections (d), (e), and (f)". Former subsec. (b) redesignated (a).

Pub. L. 115–397, §114(a), substituted "All information discussed or disclosed in the course of any mediation" for "All mediation".

Subsecs. (c), (d). Pub. L. 115–397, §114(b)(2), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 115–397, §114(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 115–397, §112, amended subsec. (e) generally, substituting provisions relating to automatic referral to congressional ethics committee of dispositions of claims involving Members of Congress and senior staff for provisions relating to access by committees of Congress.

Subsec. (f). Pub. L. 115–397, §114(b)(4), added subsec. (f). Former subsec. (f) redesignated (e).

2015—Subsec. (b). Pub. L. 114–6, §2(c)(1), inserted before period at end ", and the Executive Director shall notify each person participating in the mediation of the confidentiality requirement and of the sanctions applicable to any person who violates the confidentiality requirement".

Subsec. (c). Pub. L. 114–6, §2(c)(2), inserted at end "The Executive Director shall notify each person participating in a proceeding or deliberation to which this subsection applies of the requirements of this subsection and of the sanctions applicable to any person who violates the requirements of this subsection."

CHANGE OF NAME

Committee on Standards of Official Conduct of House of Representatives changed to Committee on Ethics of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–6 applicable with respect to mediations and other proceedings first initiated after Mar. 20, 2015, see section 2(d) of Pub. L. 114–6, set out as a note under section 1403 of this title.

§1417. Option to request remote work assignment or paid leave of absence during pendency of procedures

(a) Options for employees

(1) Remote work assignment

At the request of a covered employee who files a claim alleging a violation of part A of subchapter II by the covered employee's employing office, during the pendency of any of the procedures available under this subchapter for consideration of the claim, the employing office may permit the covered employee to carry out the employee's responsibilities from a remote location (referred to in this section as "permitting a remote work assignment") where such relocation would have the effect of materially reducing interactions between the covered employee and any person alleged to have committed the violation, instead of from a location of the employing office.

(2) Exception for work assignments required to be carried out onsite

If, in the determination of the covered employee's employing office, a covered employee who makes a request under this subsection cannot carry out the employee's responsibilities from a remote location or such relocation would not have the effect described in paragraph (1), the employing office may during the pendency of the procedures described in paragraph (1)—

(A) grant a paid leave of absence to the covered employee;

(B) permit a remote work assignment and grant a paid leave of absence to the covered employee; or

(C) make another workplace adjustment, or permit a remote work assignment, that would have the effect of reducing interactions between the covered employee and any person alleged to have committed the violation described in paragraph (1).

(3) Ensuring no retaliation

An employing office may not grant a covered employee's request under this subsection in a manner which would constitute a violation of section 1317 of this title.

(4) No impact on vacation or personal leave

In granting leave for a paid leave of absence under this section, an employing office shall not require the covered employee to substitute, for that leave, any of the accrued paid vacation or personal leave of the covered employee.

(b) Exception for arrangements subject to collective bargaining agreements

Subsection (a) does not apply to the extent that it is inconsistent with the terms and conditions of any collective bargaining agreement which is in effect with respect to an employing office.

(Pub. L. 104–1, title IV, §417, as added Pub. L. 115–397, title I, §113(a), Dec. 21, 2018, 132 Stat. 5313.)

REFERENCES IN TEXT

Part A of subchapter II, referred to in subsec. (a)(1), was in the original "part A of title II", meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

EFFECTIVE DATE

Section effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§1431. Exercise of rulemaking powers

The provisions of sections 1302(b)(3), section 1381(l), and 1384(c) of this title are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

(Pub. L. 104–1, title V, §501, Jan. 23, 1995, 109 Stat. 39; Pub. L. 115–397, title II, §201(c), Dec. 21, 2018, 132 Stat. 5317.)

AMENDMENTS

2018—Pub. L. 115–397 inserted ", section 1381(l)," before "and 1384(c) of this title" in introductory provisions.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.

§1432. Political affiliation and place of residence

(a) In general

It shall not be a violation of any provision of section 1311 of this title to consider the—

- (1) party affiliation;
- (2) domicile; or
- (3) political compatibility with the employing office;

of an employee referred to in subsection (b) with respect to employment decisions.

(b) "Employee" defined

For purposes of subsection (a), the term "employee" means—

- (1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

- (2) an employee on the staff of a committee or subcommittee of—
- (A) the House of Representatives;
 - (B) the Senate; or
 - (C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

(Pub. L. 104–1, title V, §502, Jan. 23, 1995, 109 Stat. 39.)

§1433. Nondiscrimination rules of House and Senate

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

(Pub. L. 104–1, title V, §503, Jan. 23, 1995, 109 Stat. 40.)

CHANGE OF NAME

Committee on Standards of Official Conduct of House of Representatives changed to Committee on Ethics of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§1434. Judicial branch coverage study

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

- (1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);
- (2) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);
- (3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
- (4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);
- (5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);
- (6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);
- (7) chapter 71 (relating to Federal service labor-management relations) of title 5;
- (8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);
- (9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);
- (10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and
- (11) chapter 43 (relating to veterans' employment and reemployment) of title 38.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws,

including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under subchapters I through IV of this chapter.

(Pub. L. 104–1, title V, §505, Jan. 23, 1995, 109 Stat. 41.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in par. (1), is act [June 25, 1938, ch. 676, 52 Stat. 1060](#), as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Civil Rights Act of 1964, referred to in par. (2), is [Pub. L. 88–352, July 2, 1964, 78 Stat. 252](#), as amended. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in par. (3), is [Pub. L. 101–336, July 26, 1990, 104 Stat. 327](#), as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Age Discrimination in Employment Act of 1967, referred to in par. (4), is [Pub. L. 90–202, Dec. 15, 1967, 81 Stat. 602](#), as amended, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The Family and Medical Leave Act of 1993, referred to in par. (5), is [Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6](#), as amended, which enacted sections 60m and 60n of this title, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§2601 et seq.) of Title 29, Labor, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

The Occupational Safety and Health Act of 1970, referred to in par. (6), is [Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590](#), as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Employee Polygraph Protection Act of 1988, referred to in par. (8), is [Pub. L. 100–347, June 27, 1988, 102 Stat. 646](#), as amended, which is classified generally to chapter 22 (§2001 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in par. (9), is [Pub. L. 100–379, Aug. 4, 1988, 102 Stat. 890](#), which is classified generally to chapter 23 (§2101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in par. (10), is [Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355](#), as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Subchapter II of this chapter, referred to in text, was in the original a reference to title II of this Act, meaning title II of Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to subchapter II of this chapter. For complete classification of title II to the Code, see Tables.

§1435. Savings provisions

(a) Transition provisions for employees of House of Representatives and of Senate

(1) Claims arising before effective date

If, as of the date on which section 1311 of this title takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305¹ of the Government Employees Rights Act of 1991 or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) Claims arising between effective date and opening of Office

If a claim by an employee of the Senate or House of Representatives arises under section 1311 or 1312 of this title after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 1402 and 1403 of this title, the provisions of the Government Employees Rights Act of 1991 and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 1402 and 1403 of this title. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 1405 of this title, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991¹ or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 1408 of this title.

(3) Section 1207a of this title

With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1207a¹ of this title remains in effect.

(b) Transition provisions for employees of Architect of Capitol

(1) Claims arising before effective date

If, as of the date on which section 1311 of this title takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 1831(e)(2)¹ of this title, the employee may complete, or initiate and complete, all procedures under section 1831(e)¹ of this title, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) Claims arising between effective date and opening of Office

If a claim by an employee of the Architect of the Capitol arises under section 1311 or 1312 of this title after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 1402 and 1403 of this title, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section

1831(e)(3)¹ of this title. If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 1405 of this title, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board² pursuant to section 1831(e)(3)¹ of this title, and thereafter proceed exclusively under section 1831(e)¹ of this title, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 1408 of this title.

(c) Transition provision relating to matters other than employment under section 12209 of title 42

With respect to matters other than employment under section 12209¹ of title 42, the rights, protections, remedies, and procedures of section 12209¹ of title 42 shall remain in effect until section 1331 of this title takes effect with respect to each of the entities covered by section 12209¹ of title 42.

(Pub. L. 104–1, title V, §506, Jan. 23, 1995, 109 Stat. 42.)

REFERENCES IN TEXT

For the effective dates of sections 1311, 1312, and 1331 of this title, referred to in text, see sections 1311(d), 1312(e), and 1331(i), respectively, of this title.

Rule LI of the Rules of the House of Representatives, referred to in subsec. (a)(1), (2), was repealed by H. Res. No. 5, §23(a), One Hundred Fifth Congress, Jan. 7, 1997.

The Family and Medical Leave Act of 1993, referred to in subsec. (a)(1), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6. Title V of the Act was classified generally to sections 60m and 60n of this title prior to repeal, except as provided by this section, by Pub. L. 104–1, title V, §504(b), Jan. 23, 1995, 109 Stat. 41. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29, Labor, and Tables.

The Government Employees Rights Act of 1991, referred to in subsec. (a)(1), (2), probably means the Government Employee Rights Act of 1991, which is title III of Pub. L. 102–166, Nov. 21, 1991, 105 Stat. 1088, as amended, and is classified generally to sections 2000e–16a to 2000e–16c of Title 42, The Public Health and Welfare. Sections 305 and 307 of the Act were classified to sections 1205 and 1207, respectively, of this title prior to repeal, except as provided in this section, by Pub. L. 104–1, title V, §504(a)(2), Jan. 23, 1995, 109 Stat. 41. For complete classification of this Act to the Code, see section 2000e–16a(a) of Title 42 and Tables.

Section 1207a of this title, referred to in subsec. (a)(3), was repealed, except as provided in this section, by Pub. L. 104–1, title V, §504(a)(5), Jan. 23, 1995, 109 Stat. 41.

Section 1831(e) of this title, referred to in subsec. (b), was repealed, except as provided in this section, by Pub. L. 104–1, title V, §504(c)(1), Jan. 23, 1995, 109 Stat. 41.

Section 12209 of title 42, referred to in subsec. (c), was in the original a reference to section 509 of the Americans with Disabilities Act of 1990. Sections 508 and 509 of the Act were renumbered sections 509 and 510, respectively, by Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558, and are classified to sections 12208 and 12209, respectively, of title 42.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance.

¹ See References in Text note below.

² See Change of Name note below.

§1436. Repealed. Pub. L. 106–57, title III, §313, Sept. 29, 1999, 113 Stat. 428

Section, Pub. L. 104–1, title V, §507, Jan. 23, 1995, 109 Stat. 43; Pub. L. 105–275, title I, §12, Oct. 21, 1998, 112 Stat. 2436, related to use of frequent flyer miles.

§1437. Sense of Senate regarding adoption of simplified and streamlined acquisition procedures for Senate acquisitions

It is the sense of the Senate that the Committee on Rules and Administration of the Senate should review the rules applicable to purchases by Senate offices to determine whether they are consistent with the acquisition simplification and streamlining laws enacted in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

(Pub. L. 104–1, title V, §508, Jan. 23, 1995, 109 Stat. 44.)

REFERENCES IN TEXT

The Federal Acquisition Streamlining Act of 1994, referred to in text, is Pub. L. 103–355, Oct. 13, 1994, 108 Stat. 3243. For complete classification of this Act to the Code, see Short Title of 1994 Act note set out under section 101 of Title 41, Public Contracts, and Tables.

§1437a. Training and education programs of employing offices

(a) Requiring offices to develop and implement programs

Each employing office shall develop and implement a program to train and educate covered employees of the office in the rights and protections provided under this chapter, including the procedures available under subchapter IV to consider alleged violations of this chapter.

(b) Report to committees

(1) In general

Not later than 45 days after the beginning of each Congress (beginning with the One Hundred Seventeenth Congress), each employing office shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate on the implementation of the program required under subsection (a).

(2) Special rule for first report

Not later than 180 days after December 21, 2018, each employing office shall submit the report described in paragraph (1) to the Committees described in such paragraph.

(c) Exception for offices of Congress

This section does not apply to an employing office of the House of Representatives or an employing office of the Senate.

(Pub. L. 104–1, title V, §509, as added Pub. L. 115–397, title III, §306(a)(2), Dec. 21, 2018, 132 Stat. 5324.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

PRIOR PROVISIONS

A prior section 509 of Pub. L. 104–1 was renumbered section 511 and is classified to section 1438 of this title.

EFFECTIVE DATE

Section effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

§1437b. Support for out-of-area covered employees

(a) In general

All covered employees whose location of employment is outside of the Washington, DC area (referred to in this section as "out-of-area covered employees") shall have equitable access to the resources and services provided by the Office and under this chapter as is provided to covered employees who work in the Washington, DC area.

(b) Office of Congressional Workplace Rights

The Office shall—

(1) establish a method by which out-of-area covered employees may communicate securely with the Office, which shall include an option for real-time audiovisual communication; and

(2) provide guidance to employing offices regarding how each office can facilitate equitable access to the resources and services provided under this chapter for its out-of-area covered employees, including information regarding the communication methods described in paragraph (1).

(c) Employing offices

It is the sense of Congress that each employing office with out-of-area covered employees should use its best efforts to facilitate equitable access to the resources and services provided under this chapter for those employees.

(Pub. L. 104–1, title V, §510, as added Pub. L. 115–397, title III, §307(a)(2), Dec. 21, 2018, 132 Stat. 5325.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

PRIOR PROVISIONS

A prior section 510 of Pub. L. 104–1 was renumbered section 511 and is classified to section 1438 of this title.

EFFECTIVE DATE

Section effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as an Effective Date of 2018 Amendment note under section 1301 of this title.

§1438. Severability

If any provision of this chapter or the application of such provision to any person or circumstance is held to be invalid, the remainder of this chapter and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.

(Pub. L. 104–1, title V, §511, formerly §509, Jan. 23, 1995, 109 Stat. 44; renumbered §510, renumbered §511, Pub. L. 115–397, title III, §§306(a)(1), 307(a)(1), Dec. 21, 2018, 132 Stat. 5324, 5325.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115–397, set out as a note under section 1301 of this title.