

Statement of
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Subcommittee on the Legislative Branch
Fiscal Year 2020 Budget Request
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Madam Chairman Hyde-Smith, Ranking Member Murphy, and Members of the Subcommittee on the Legislative Branch, thank you for allowing me the opportunity to submit for the record this statement regarding the budget request for Fiscal Year (FY) 2020 for the Office of Congressional Workplace Rights (OCWR). I want to express our appreciation to this Subcommittee for its continued support of the OCWR and its mission of advancing workplace rights, safety, health, and accessibility for employees in the legislative branch and visiting members of the public.

The Congressional Accountability Act of 1995 (CAA) embodies a promise by Congress to the American public that it will hold itself accountable to the same federal workplace and accessibility laws that it applies to private sector employers and executive branch agencies. Congress established the OCWR—until recently known as the Office of Compliance—to administer the CAA.

The OCWR's Statutory Mandate

The OCWR is a very small office with a very broad mandate. With 28 FTE positions, inclusive of a part-time Board of Directors, the OCWR serves the same functions as multiple agencies in the executive branch, including the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, the Department of Labor, the Department of Justice, and the Federal Labor Relations Authority. We enforce federal workplace and accessibility laws that cover more than 30,000 employees in the legislative branch, including the Senate, the House of Representatives, the United States Capitol Police, the Library of Congress, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Congressional Accessibility Services, and our own office, among others. We administer the administrative dispute resolution (ADR) system established by the CAA to resolve workplace disputes; we carry out a program of education respecting the laws made applicable to employing offices of the legislative branch by virtue of the CAA and to inform individuals of their rights under those laws; and we advise Congress on needed changes and amendments to the CAA.

Furthermore, our Office of General Counsel (OGC) is responsible for inspecting—at least once each Congress—over 18 million square feet of facilities and grounds in the legislative branch for Occupational Safety and Health Act (OSH) violations, as well as the public areas of all facilities in the legislative branch for compliance with titles II and III of the Americans with Disabilities Act (ADA). Moreover, the OGC investigates allegations of OSH, ADA, and unfair labor practice

(ULP) violations filed under sections 210, 215 and 220 of the Act, and for filing and prosecuting complaints of OSH, ADA and ULP violations. With no redundant staff, the OCWR also regularly contracts for the services of other individuals such as mediators, hearing officers, and safety and health inspectors, in support of its statutory mandate.

The CAA Reform Act

On December 21, 2018, the Congressional Accountability Act of 1995 Reform Act was enacted. Pub. L. No. 115-397. Not since the passage of the CAA in 1995 has there been a more significant moment in the evolution of legislative branch workplace rights. The new law focuses on protecting victims, strengthening transparency, holding violators accountable for their personal misconduct, and improving the adjudication process. The CAA Reform Act includes many important changes that dramatically expand the OCWR's duties and responsibilities, as well as the number of employees covered by the CAA.

These new duties and responsibilities include:

- substantially modifying the ADR process under the CAA, including creating additional procedures for preliminary hearing officer review of claims;
- developing and implementing procedures for current and former Members of Congress to reimburse awards or settlement payments resulting from harassment or retaliation claims;
- developing and implementing procedures for employing offices to reimburse payments resulting from specified claims of discrimination;
- appointing one or more advisors to provide confidential information to legislative branch employees about their rights under the CAA;
- renaming our office as the Office of Congressional Workplace Rights to more clearly inform the legislative branch community of our mission;
- extending CAA protections to unpaid staff, including interns, detailees, and fellows, as well as employees of the John C. Stennis Center for Public Service Training and Development, the China Review Commission, the Congressional-Executive China Commission, and the Helsinki Commission;
- significantly expanding OCWR reporting obligations;
- developing and administering a biennial climate survey of all legislative branch employing offices to collect information on the workplace environment and attitudes regarding sexual harassment;
- creating a program to permanently retain records of preliminary reviews, mediations, hearings, and other proceedings;
- establishing an electronic filing system to receive and keep track of claims; and

- developing and implementing means by which legislative branch employees who work outside of the Washington, D.C., area—such as in Members’ district offices—have equal access to OCWR services and resources.

Some of the changes in the CAA Reform Act became effective immediately upon enactment, such as the renaming of the Office, but most became effective 180 days from enactment, i.e., on June 19, 2019. The biennial climate survey, being designed in FY 2019, will be administered for the first time in FY 2020.

The OCWR’s FY 2020 Budget Justification

For FY 2020 operations, we are requesting \$6,332,670, which is the same amount as our FY 2019 enacted level. Approximately 60% of the requested amount provides pay and benefits to OCWR employees. The remainder focuses on supporting the OCWR’s statutory mandates and improving the delivery of services to the covered community under the CAA. It also reflects the OCWR’s implementation and administration of the changes set forth in the Reform Act, discussed above. This amount will also allow us to carry out our statutory mission to educate and train Members of Congress, their staff, and other legislative branch offices and employees on their rights and responsibilities under the CAA by developing education and training courses specifically designed for the legislative branch, which are easily understood, practical rather than legalistic, and proven effective. The education and training programs mandated by the Reform Act reflect Congress’s ongoing commitment to foster and promote a healthy workplace culture on Capitol Hill.

The OCWR received a substantial increase to its funding for FY 2018 and FY 2019. Using this funding, we implemented the statutorily mandated changes by June 19, 2019, including the design and development of a secure e-filing system, and revision of all publications and education and training materials that the OCWR produces to incorporate the changes set forth in the Reform Act. Although the initiatives mandated by the Reform Act required substantial funding in FY 2019, many of those initiatives will also require ongoing funding in FY 2020 and beyond. For instance, the e-filing system will require continuing cybersecurity upgrades and modifications. Online training and educational modules must be continually updated. New ADR procedures, such as preliminary review by hearing officers of certain claims, will affect the costs associated with adjudicating those claims.

One of the most costly and laborious tasks for OCWR is the designing, development and implementation of a biennial climate survey on the workplace environment and attitudes regarding sexual harassment in the legislative branch. Conducting the survey beginning in FY 2020 and every two years thereafter, updating the survey, and interpreting the data resulting from the survey, will result in additional recurring costs.

Of the FY 2020 requested amount, the OCWR is requesting that a total of \$1,000,000 remain available until September 30, 2021, for the services of essential contractors, including hearing officers, mediators, and safety and health inspectors and to design, develop, and implement a climate survey of the legislative branch employing offices.

Alternative Dispute Resolution Program

The OCWR requests a total of \$300,000 for non-personnel services for FY 2020 for administration of its ADR program, which represents our best estimate for the cost of administering that program in the coming fiscal year based on past and current expenses. The CAA establishes an ADR process that provides employing offices and covered employees a neutral, efficient, and cost-effective means of resolving workplace disputes. We strive to ensure that stakeholders have full access to these ADR procedures. The OCWR enjoys a 100% affirmance rate in employment cases by the U.S. Court of Appeals for the Federal Circuit. We continue to do more with less, maintaining a flat rate of pay for contract mediators, a standardized hourly fee for hearing officers, and rate limitations for other outside service providers.

In any given year, it is difficult to predict the number of cases that will be filed with the OCWR's ADR program, the complexity or duration of administrative proceedings, or the overall costs associated with case processing and adjudication. In FY 2018, for example, Library of Congress employees were allowed to file claims with the OCWR for the first time. This has already added to the number of cases filed with the OCWR, and we expect that number will continue to increase. Fully implementing the CAA Reform Act in the last quarter of FY 2019 adds to the difficulty of making such predictions for FY 2020. The new ADR process, as required by the Reform Act, is outlined in our FY 2020 budget justification. As discussed above, these changes require, among other things, that an additional hearing officer be appointed to conduct a preliminary review in each case filed on or after June 19, 2019, that involves claims arising under part A of title II of the CAA. Furthermore, the changes set forth in the CAA Reform Act required the OCWR to amend its Procedural Rules, modify its Case Management System, develop and maintain a full electronic filing system, and improve IT infrastructure and cybersecurity. Other changes in the Reform Act—such as extending CAA protections to unpaid staff, including interns, detailees, and fellows—are highly likely to add to the number of cases on the ADR docket. Our budget justification takes these considerations into account when projecting the costs for administering this program in FY 2020.

Education and Training Programs

The OCWR is requesting a total of \$370,000 for non-personnel services for FY 2020 for its Education and Training Programs. Our office has a statutory mission to educate and train Members of Congress and legislative branch employees on their rights and responsibilities under the CAA. In FY 2019, demand for our educational and training materials on preventing harassment and other forms of discrimination in the workplace dramatically increased, and we anticipate continued demand for these educational services.

During FY 2019, at the request of the Congressional Research Service, OCWR presented in-person training during District and State Staff Institute programs. During each training session, the OCWR interacted with approximately 40-50 congressional staffers new to their jobs in district and state offices located around the country. In FY 2019, the OCWR delivered training to thousands of legislative branch employees in-person, via webinar, and online. Topics included the rights and protections under the CAA and OCWR procedures, as well as training on specific areas of the law including Veterans Employment Opportunities Act and the Family and Medical Leave Act. In addition, the OCWR provided training on CAA-related curricula designed to promote awareness and compliance with the Act, including training on bystander intervention

and unconscious bias. The OCWR also prepared and distributed thousands of Notices to employing offices that describe the rights, protections, and procedures under the CAA.

The OCWR also reorganized and updated its website and added additional tools in FY 2019, including interactive information on safety and health issues, and publications to educate the covered community. The OCWR's monthly publications and quarterly electronic newsletters are aimed at keeping the congressional community up to date on developments in the areas of safety and health and workplace rights. The OCWR continues to meet this need for education and information on the CAA.

In FY 2019, the passage of the Reform Act required the OCWR to modify its publications and online training and education materials, and provide equal access to OCWR services and resources for out-of-area employees. Virtually everything that the OCWR produces, including publications and training materials, has been revised. In addition, we are developing new tools, and expanding online offerings to include videos on the CAA and OCWR procedures, as well as ADA instructional guidance. We are working with covered employing offices to support their programs to train and educate employees on their rights and protections. Our ongoing mission to provide stakeholders in the legislative branch with current, dynamic and innovative educational and outreach materials will require substantial funds in FY 2020.

Safety and Health and Public Access

The OCWR is requesting a total of \$302,600 for non-personnel services for FY 2020 for its OSH and ADA public access inspection programs. Before the OCWR opened its doors in 1996, Capitol Hill buildings had not been subject to even the most basic building codes or regulations. The first inspections led to the discovery of serious fire and other safety hazards in House and Senate buildings and around the Capitol. As a result of OCWR inspections, Congress has abated thousands of serious hazards, reduced numerous barriers to access for individuals with disabilities, and dramatically improved the overall safety and accessibility of the Capitol Hill campus. The OCWR has been instrumental in developing and implementing cost-effective solutions to safety and access problems by working directly with the Architect of the Capitol and other offices on the Hill. It is during these inspections that our inspectors, who are trained OSH and ADA specialists, can work directly with employing offices, providing technical support at the point where assistance is needed. Our budget request will allow us to continue to provide the level of expertise and assistance that the community deserves.

Additional Services

The balance of the requested amount covers contract services, including those furnished by cross-service providers, such as the Library of Congress and the National Finance Center, and other services, equipment and supplies needed to operate the OCWR.

Thank you very much for providing us with this opportunity to brief you on our FY 2020 budget request. As the Executive Director of the OCWR, I am proud of the work that our highly professional, talented, and motivated staff members perform every day. We are available to answer any questions or to address any concerns that the Chair, Ranking Member, or Members of the Subcommittee may have.

Susan Tsui Grundmann

Executive Director