

How many domes can you find in this report?  
Answer on the back

# The First 20 Years

A Report on Workplace Rights, Safety, Health, and Accessibility Under the Congressional Accountability Act

+ OFFICE OF COMPLIANCE  
+ FY2015 ANNUAL REPORT



STATE OF THE  
**CONGRESSIONAL WORKPLACE**





“Congress should abide by the same laws it creates for the rest of society. In 1995, Congress passed the Congressional Accountability Act, a bill I introduced to ensure that employees on Capitol Hill enjoy the same protections in the workplace as those that Congress granted to the private sector and the rest of government. In the last 20 years, this law has gone a long way to keeping Congress accountable and helping Congress understand the impact on Main Street of the laws it passes.”

**+ Senator Chuck Grassley (IA)**  
**Author of the Congressional Accountability Act of 1995**

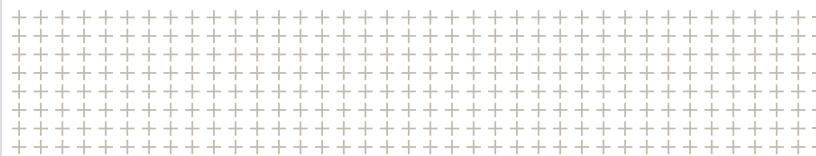


“We will take a big step forward toward restoring the confidence in this institution if we make ourselves subject to the same legal framework that we impose upon every other American. Americans want to know that we are not above the law. It’s more than just a question of right and wrong. It’s a question of basic fairness and decency . . .”

**+ Senator Barbara Mikulski (MD), June 29, 1994,**  
**from the legislative history of the Congressional Accountability Act of 1995**

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# THE CHAIR OF THE BOARD OF DIRECTORS



On behalf of the Board of Directors, I am pleased to present the Congressional Office of Compliance's (OOC) Annual Report for FY2015. This past year marked the twentieth anniversary of the nearly unanimous passage of the Congressional Accountability Act of 1995 (CAA).

The landmark legislation placed some 30,000 congressional workers and their offices under important workplace laws, and established the OOC as an independent agency to help ensure a fair and safe workplace, and barrier-free access to Capitol Hill and district offices.

For twenty years, the OOC has performed the work of multiple executive branch agencies, including the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, and the Occupational Safety and Health Administration. In FY2015, the OOC carried out its broad and important legislative mandate with a staff of 22 FTEs including a part-time Board of Directors. This Report highlights the OOC's achievements and challenges in FY2015, as well as the significant changes on Capitol Hill since the passage of the CAA in 1995.

Prior to the CAA, most Capitol Hill buildings had not been subject to even the most basic building codes or occupational safety and health standards. The OOC's first safety inspections led to the discovery of serious fire and other hazards in House and Senate buildings. Since those first inspections and at the urging of the OOC, Congress has abated thousands of serious workplace hazards, reduced numerous barriers to access for individuals with disabilities, and significantly improved the safety and accessibility of the Capitol Hill campus.

The OOC has continued to focus its safety efforts on high risk areas and on promoting safe emergency evacuation plans, ensuring adequate alarm and warning systems, and promoting staff training on safety issues. In FY2015, our small and dedicated inspection staff inspected a staggering number of buildings and millions of square feet of the Capitol Hill complex, both for OSH compliance and for review of accessibility barriers.

The OOC's efforts in FY2015, and over the past 20 years, have been made more effective with the cooperation and support of the Architect of the Capitol, the Committee on House Administration, the Senate Committee on Rules

and Administration, and many other congressional offices. Our Capitol Hill partners have committed to make safety improvements and to eliminate the accessibility barriers as required by the CAA.

On a tour of the U.S. Botanic Garden with Executive Director Ari Novy, I saw firsthand the Garden's newly accessible pathways, restrooms, and water fountains for visitors in wheelchairs. I learned about the improved signage for sight-impaired visitors and the sign language interpretation services available for tours and programs. These improved facilities and amenities demonstrate the AOC's deep commitment to enhanced public access to the Botanic Garden and its 750,000 annual visitors.

Congress has tasked the OOC with administering a confidential dispute resolution program and educating and training Members and staff on their rights and responsibilities to ensure a fair workplace that is free of discrimination. This Report explains the OOC's unique processes which are designed like no others in the federal government. Our handling of complaints focuses on discretion and encourages voluntary resolutions that provide minimal disruption to the workplace and satisfaction for all parties. The goals of minimizing conflict and resolving disputes at the lowest level also apply to the labor-management disputes brought to the OOC's Office of General Counsel. In FY2015, as in the past, the vast majority of cases filed with the OOC were resolved expeditiously and efficiently through counseling and mediation.

Throughout FY2015, the OOC staff provided essential training and education to its covered community as mandated by the CAA. Part of our challenge is to build credibility and trust with the employing offices and their employment counsel, and to establish effective outreach programs that educate the congressional community on the CAA and the OOC's unique processes.

Twenty years after the CAA's passage, the members of the OOC Board of Directors and the entire OOC staff continue to recognize the importance of the Congressional Accountability Act. We commit to effectively administer its mandate of a fair, safe, and accessible congressional workplace.

Sincerely,

A handwritten signature in black ink that reads "Barbara L. Camens". The signature is fluid and cursive.

Barbara L. Camens

# STATEMENT FROM THE EXECUTIVE DIRECTOR



As the Executive Director of the Office of Compliance (OOC), it is my pleasure to share our FY2015 Annual Report. Having been in business for over 20 years, the OOC is including in this Annual Report a historical perspective on the landmark Congressional Accountability Act of 1995 (CAA). The CAA Time Line of

Progress appearing on pages 8–9 outlines the dramatic changes that have occurred on Capitol Hill since 1995, when Congress decided to cover its employees under many federal workplace laws that had already applied in the executive branch and private sector. Over the last 20 years, since the enactment of the CAA, we have seen many exciting achievements and improvements in the areas of employment rights, safety, public access, and labor-management relations. And the OOC, with its small staff and complex mission, has shepherded the efforts for two decades in partnership with Congress and its instrumentalities.

During this past year, the OOC has responded to more than 25 occupational safety and health requests for inspection, and hundreds of calls from legislative employees inquiring about their workplace rights. Our trainers and staff attorneys have presented dozens of employment rights training sessions and introduced countless people to newly developed online resources on our website at [www.compliance.gov](http://www.compliance.gov). This is all to ensure a safer and healthier work environment.

The OOC Board of Directors decided a significant number of complex cases which involved, among other issues: age, veterans status and preference, race and national origin, disability discrimination, and overtime. In addition, during this year, the Board issued proposed regulations on changes under the Family and Medical Leave Act, and worked on adopting regulations ensuring the right of individuals with disabilities to full public access to Capitol Hill services, programs, activities, and accommodations.

Our education and outreach goals for the future include working with the congressional community to show that proper training will lead to voluntary compliance with workplace laws, as employing offices recognize and modify proscribed behaviors, and employees fully understand their rights. Toward this end, the OOC Education and Outreach Program was very busy during 2015, advancing its awareness campaign by launching its first interactive, web-based training for all employees, and especially those who were unable to attend live training due to time or geography constraints. The new online module titled “Preventing Sexual Harassment in the Congressional Workplace” provides an in-depth look at unlawful behaviors that may constitute sex discrimination under the Civil Rights Act of 1964, as applied in the CAA. Staff continued to work on a module outlining protections and responsibilities under the Americans with Disabilities Act. Future goals include developing modules on other aspects of the CAA and establishing our Online Training Academy.

We have renewed efforts to publish our newsletter, Compliance@Work on a monthly basis to keep employees and employing offices apprised of their rights and responsibilities under the 13 workplace laws of the CAA. All materials are accessible on our website, which provides information on all CAA topics ranging from proper use of electrical outlets in the workplace to making reasonable accommodations for employees with disabilities.

We accept the challenge of reaching out to 30,000 covered employees and countless visitors to Capitol Hill and the state and district offices as we develop new and improved ways of administering and enforcing the CAA in the future.

Happy twentieth anniversary to the CAA!

Sincerely,

A handwritten signature in black ink that reads "Barbara J. Sapin". The signature is written in a cursive, flowing style.

Barbara J. Sapin, Executive Director

# THE CONGRESSIONAL WORKPLACES COVERED BY THE CAA

The Congressional Accountability Act of 1995 protects over 30,000 employees of the legislative branch nationwide, and provides protections and legal rights for members of the public with disabilities who seek access to legislative branch public accommodations and services. These agencies include:

 <p>Congressional Budget Office</p>	 <p>Government Accountability Office*</p>	 <p>House of Representatives</p>	 <p>LIBRARY OF CONGRESS Library of Congress*</p>
 <p>Office of the Architect of the Capitol</p>	 <p>Office of Compliance</p>	  <p>Office of Congressional Accessibility Services</p>	
 <p>Senate</p>	 <p>United States Capitol Police</p>	<p><b>Office of the Attending Physician</b> (private seal)</p> <p>*Certain provisions of the CAA do not apply to the Government Accountability Office and the Library of Congress; however, employees of those agencies may have similar legal rights under different statutory provisions and procedures.</p>	

# ANNUAL NOTIFICATION OF RIGHTS TO COVERED LEGISLATIVE BRANCH EMPLOYEES



## UNDERSTANDING YOUR RIGHTS UNDER THE CAA

As a legislative branch employee, you are protected by the Congressional Accountability Act of 1995 (CAA). The CAA applies to Congress and its covered community many of the workplace rights, safety, health, and public access laws that are available to private sector and executive branch employees. You may also be entitled to redress for violations of the CAA, including monetary awards, attorney's fees, costs, reinstatement, promotion, or backpay. To assert your rights under the CAA, you must file with the Office of Compliance (OOC) a Request for Counseling within 180 days of an alleged violation. Please visit [www.compliance.gov](http://www.compliance.gov) for further information about the rights and protections provided to Congressional employees, or contact the OOC at (202) 724-9250 and ask to speak to a counselor. All counseling is strictly confidential.

### NO HARASSMENT OR DISCRIMINATION

#### Section 201 of the CAA

Prohibits harassment and discrimination in personnel actions based on race, color, national origin, sex, religion, age, or disability.

### FAMILY AND MEDICAL LEAVE

#### Section 202 of the CAA

Provides rights and protections for employees taking or requesting leave for certain family and medical reasons.

### FAIR LABOR STANDARDS

#### Section 203 of the CAA

Requires the payment of minimum wage and overtime compensation to nonexempt employees, restricts child labor, and prohibits sex discrimination in wages.

### POLYGRAPH TESTING PROTECTIONS

#### Section 204 of the CAA

Except in certain circumstances, prohibits requiring or requesting that lie detector tests be taken; using, accepting, or inquiring about the results of a lie detector test; or firing or discriminating against an employee based on the results of a lie detector test or for refusing to take a test.

### NOTIFICATION OF OFFICE CLOSING OR MASS LAYOFFS

#### Section 205 of the CAA

Under certain circumstances, requires that employees be notified of an office closing or of a mass layoff at least sixty days in advance of the event.

### UNIFORMED SERVICES RIGHTS AND PROTECTIONS

#### Section 206 of the CAA

Protects employees who are performing service in the uniformed services from discrimination and provides certain benefits and reemployment rights.

### REPRISAL OR INTIMIDATION PROHIBITED FOR EXERCISING WORKPLACE RIGHTS

#### Section 207 of the CAA

Prohibits employing offices from intimidating, retaliating, or discriminating against employees who exercise their rights as applied by the CAA.

### ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS

#### Section 210 of the CAA

Protects members of the public who are qualified individuals with disabilities from being denied access to public services, programs, activities, or places of public accommodation in the legislative branch.

### HAZARD-FREE WORKSPACES

#### Section 215 of the CAA

Requires that all workplaces be free of recognized hazards that might cause death or serious injury.

### COLLECTIVE BARGAINING AND UNIONIZATION

#### Section 220 of the CAA

Protects the rights of certain legislative branch employees to form, join, or assist a labor organization, or to refrain from such activity.

### GENETIC INFORMATION NONDISCRIMINATION & PRIVACY

#### Genetic Information Nondiscrimination Act

Prohibits the use of an employee's genetic information as a basis for discrimination in personnel actions.

### VETERANS' EMPLOYMENT OPPORTUNITIES

#### Veterans' Employment Opportunities Act

Gives certain veterans enhanced access to job opportunities and establishes a redress system for preference eligible veterans in the event that their veterans' preference rights are violated.

Certain provisions of the CAA do not apply to the Government Accountability Office and the Library of Congress; however, employees of those agencies may have similar legal rights under different statutory provisions and procedures.

# IN THIS ANNUAL REPORT

January 23, 2015 marked the twentieth anniversary of the almost unanimous passage of the Congressional Accountability Act of 1995 (CAA). The Office of Compliance presents this Annual Report as its ongoing review of the federal workplace laws applied to Congress through the CAA and its assessment of how congressional employees and the public access the agency's services. This Report covers the period beginning on October 1, 2014, and ending on September 30, 2015. To mark the twentieth anniversary of the legislation, the Report also provides a Time Line of Progress which chronicles the events leading to the passage of the landmark law and its impact on Congress and the entire legislative branch community since its enactment.

## STATISTICAL ANALYSIS OF CONTACTS/ CASES AND EDUCATIONAL PROGRAMS

In accordance with Section 301(h) of the CAA, this Report provides statistics on the use of the Office by congressional employees, including the types of claims being brought against employing offices. This Report also describes the agency's programs developed during FY2015—consistent with its mandate to educate and train Members of Congress and legislative branch employees on their rights and responsibilities under the CAA.

## SAFETY AND HEALTH

Section 215(e) of the CAA requires that at least once each Congress, the OOC inspect and report on the legislative branch facilities' compliance with standards under the Occupational Safety and Health Act (OSHA). This Report provides an overview of the risk-based inspections conducted during the 114<sup>th</sup> Congress.

## PUBLIC ACCESS

Every Congress, Section 210(f) of the CAA requires that the OOC inspect legislative branch facilities for compliance with the access to public services and accommodations requirements of the Americans with Disabilities Act (ADA) and report on those findings.

## LABOR-MANAGEMENT RELATIONS

This Report provides an overview of the General Counsel's responsibilities for investigating and enforcing violations of the labor laws incorporated in the CAA, as well as efforts to promote successful labor-management relations on Capitol Hill.

## RECOMMENDATIONS TO CONGRESS

Under Section 102(b) of the CAA, the Board of Directors must review provisions of Federal law relating to the terms and conditions of employment and access to public services and accommodations, and make recommendations on which provisions should be made applicable to the legislative branch. The excerpted December 2014 report is included here.



The Capitol Visitor Center (CVC) and the Capitol Hill campus welcome 3–5 million visitors each year.



# FY2015 CASES IN REVIEW

Each year, the Office of Compliance is required to report to Congress statistics on the use of the Office by covered employees. Below is a highlight of the statistical information for FY2015 that appears in the graphs and charts in this Report.



Congressional workers file administrative complaints with the OOC.

## OFFICE OF COMPLIANCE— DISPUTE RESOLUTION PROCESS

Initial Contacts .....	306
Requests for Counseling Filed .....	63
Total Cases in Mediation .....	70
Administrative Complaints Filed.....	11
Appeals to the BOD Filed .....	8

## CASE NOTES\*

In FY2015, 11 administrative complaints were filed with the Office of Compliance and scheduled for hearing. The complaints alleged violations of certain provisions of the CAA (Part A, of subchapter II) that are subject to the confidentiality provisions of the Act. Some of the bases and issues that were the subject of the complaints include:

- Allegations of harassment, discrimination, and reprisal for opposing practices that led to a proposal to demote.
- Complaints of sexual harassment by an immediate supervisor, and unfair discipline when the employee complained about the harassment.
- Allegations of discrimination based on military service by an applicant not selected for employment.
- Claims of denial of religious accommodation when the employing office did not adjust a work schedule to allow for attendance at religious services.
- Allegations that the denial of a promotion, higher compensation, and increased job opportunities was due to race discrimination and intimidation that created a hostile work environment.
- Claims of denial of a reasonable accommodation based on disability discrimination, a violation of rights under the Family and Medical Leave Act (FMLA), and retaliation for opposing discrimination in the workplace resulting in an unlawful termination.

## GENERAL COUNSEL OF THE OFFICE OF COMPLIANCE

Requestor-Initiated Occupational Safety and Health Cases .....	9
Requestor-Initiated Americans with Disabilities Act Cases.....	2
Unfair Labor Practice Charges .....	13
Other Requests and Contacts.....	31

## CASE NOTES

The General Counsel of the Office of Compliance is responsible for investigating and enforcing provisions of the CAA that include labor-management relations, occupational safety and health, and discrimination against the disabled in access and accommodations to public events and spaces. Examples of cases brought to the General Counsel's office in FY2015 include:

- Unfair labor practice charged by a union alleging retaliation against a union official for raising employee concerns to management.
- Unfair labor practice charged by an employing office against a union official for allegedly disclosing confidential information in violation of a Memorandum of Understanding.
- Request for investigation as to employees' exposure to unsafe noise levels.
- Request for investigation of whether adequate fall protection is being used.

*\*These notes are representative of the types of cases brought before the Office of Compliance. All cases with the Office of Compliance are strictly confidential.*

# CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: TIME LINE OF PROGRESS

Dramatic changes have occurred since the passage of the Congressional Accountability Act in 1995. Below is a time line illustrating the importance and impact of this landmark legislation in the areas of workers' rights, safety and health, and public access in the legislative branch.

## June 5, 1979

Supreme Court rules 5–4 that congressional staffers prevented from suing their employers under the Civil Rights Act of 1964 have a Fifth Amendment Constitutional right to be free from illegal discrimination. *Davis v. Passman*, 442 U.S. 228 (1979).



## 1989

Americans with Disabilities Act of 1990 (ADA) passes. Coverage does not apply to Congress.



## February 13, 1996–May 1, 1996

The OOC General Counsel begins safety and ADA inspections.

- Drinking water must be shut off at U.S. Capitol Police's K9 facility.
- Improperly stored 25-gallon containers of flammable liquids found in basements of twelve office buildings.
- Virtually no offices have emergency plans or evacuation procedures of any kind.
- Workers handling corrosive chemicals have no emergency eye wash stations.
- Faulty ventilation systems pump gas fumes from garages and loading docks into Members' offices.

## November 1991

Senate Office of Fair Employment Practices becomes the impartial enforcement body for employee discrimination claims in the Civil Rights Act of 1991.

## January 23, 1995

CAA is the first bill passed and signed into law for the 104<sup>th</sup> Congress. The landmark legislation applies 11 civil rights, safety, labor, and public access federal laws to the legislative branch.



## 1992

A Congressman requests a safety inspection by OSHA of his Capitol Hill office. Violations in electrical, carpeting, and flawed cabinet design are found. OSHA lacks authority to report or cite the findings.



## January 23, 1996

The Office of Compliance is officially open. That year, 95 covered employees filed claims alleging CAA violations.



### 1997–2002

A wide variety of legislative branch employees are unionized, including police officers, masons, carpenters, electricians, plumbers, power plant laborers, and clerical and administrative workers.

### 2005–2011

Hazards decrease each Congress even as the total space inspected increases by millions of square feet.

- 109<sup>th</sup> Congress= 13,140 hazards
- 110<sup>th</sup> Congress = 9,248
- 111<sup>th</sup> Congress = 5,400



### 1998–present

The OOC Board of Directors recommends mandatory notice-posting of workplace rights, mandatory anti-discrimination training, and whistleblower protections for employees who report waste, fraud, and abuse.

### 2001

Post 9/11 attacks, the OOC works with offices on their emergency action plans, evacuation plans, chemical/biological response, communications, and fire safety systems.

### 2008

Senate and House Employment Counsel, along with representatives from the CAO and the AOC, institute a new pre-inspection process in their jurisdictions, reducing hazards in congressional offices by 50%.

GINA applies to the legislative branch under the CAA.



### Dec. 2, 2008

Opening ceremony at the Capitol Visitor Center (CVC). The OOC worked with the AOC during pre-construction to ensure the CVC's compliance with the ADA and OSHA Act.



### April 1997

Visually impaired Senate aide is barred from bringing her guide dog into the Senate chamber. Senate acts the next day to ensure that guide dogs, wheelchairs, and other supportive services for people with disabilities are allowed.

### 2010

VEOA regulations approved by Congress apply under the CAA.



### 2011

The AOC develops a comprehensive strategy to remove the barriers to access that have been identified by the OOC's ADA Inspection Report.

### January 23, 2016

The OOC celebrates its 20<sup>th</sup> Anniversary



# WHAT WE DO

## THE DISPUTE RESOLUTION PROCESS OF THE CAA

### Resolving Discrimination, Harassment, and Other Employment Disputes in the Legislative Branch

The Administrative Dispute Resolution Program (ADR) outlined in the CAA, and described on pages 17–21 of this Report, continues to produce a high rate of successful voluntary settlements resolving employment disputes in both houses of Congress, as well as in the congressional instrumentalities. Many controversies involving alleged violations of the 13 statutes administered and enforced by the OOC were successfully resolved during FY2015 without formal adversarial proceedings. We continue to search for new ways to effectively resolve workplace disputes.

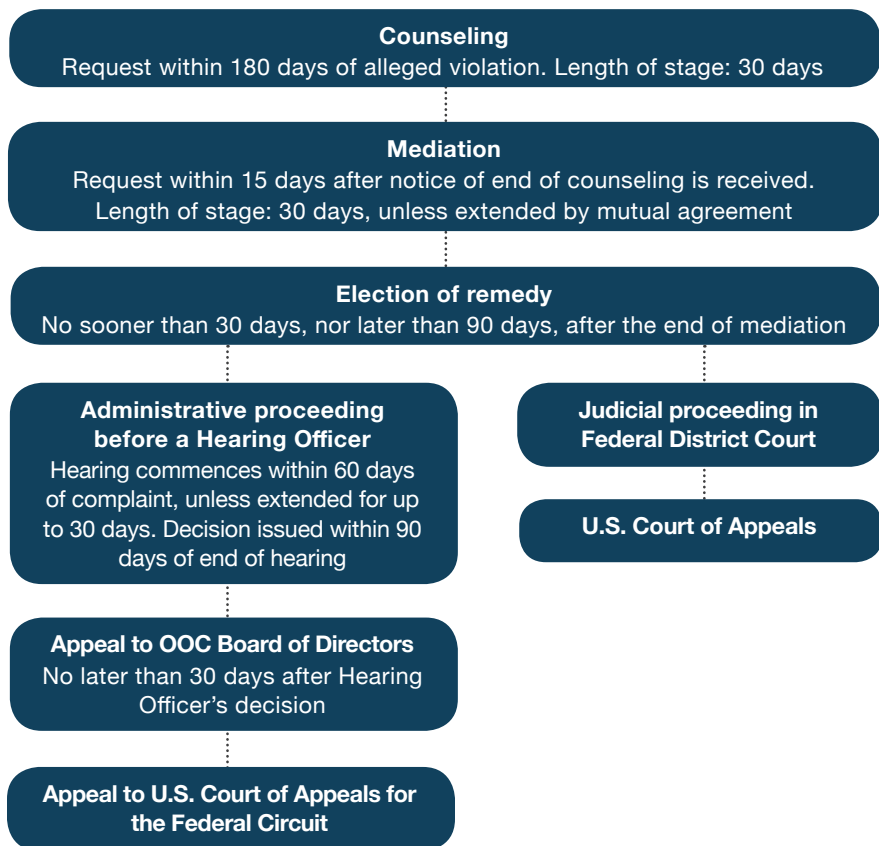
The CAA provides a 180-day time limit for an employee, applicant, or former employee to initiate a claim with the OOC concerning their workplace rights. If confidential counseling does not resolve the matter, an employee may pursue their claim through confidential

mediation with their employing office that is facilitated by a trained mediator. If the parties involved are not able to resolve their dispute through mediation, an employee may either pursue an administrative hearing with the OOC or file a civil suit in Federal District Court.

If, after an administrative hearing, either the employee or the employing office is dissatisfied with the final decision of the hearing officer, a request may be made to have the hearing officer’s decision reviewed by the five-member Board of Directors of the OOC. A party dissatisfied with the decision of the Board may file a petition for review of the decision with the U.S. Court of Appeals for the Federal Circuit. If the employee decides to file a civil suit in Federal District Court, an appeal of that decision will proceed under the rules of the appropriate U.S. Court of Appeals.

For many of the claims under the CAA, the process outlined above does not apply to the employees of the Library of Congress or the Government Accountability Office.

### Dispute Resolution Process for Most Types of Claims



The OOC provides a confidential ADR process to resolve employee complaints under the CAA.

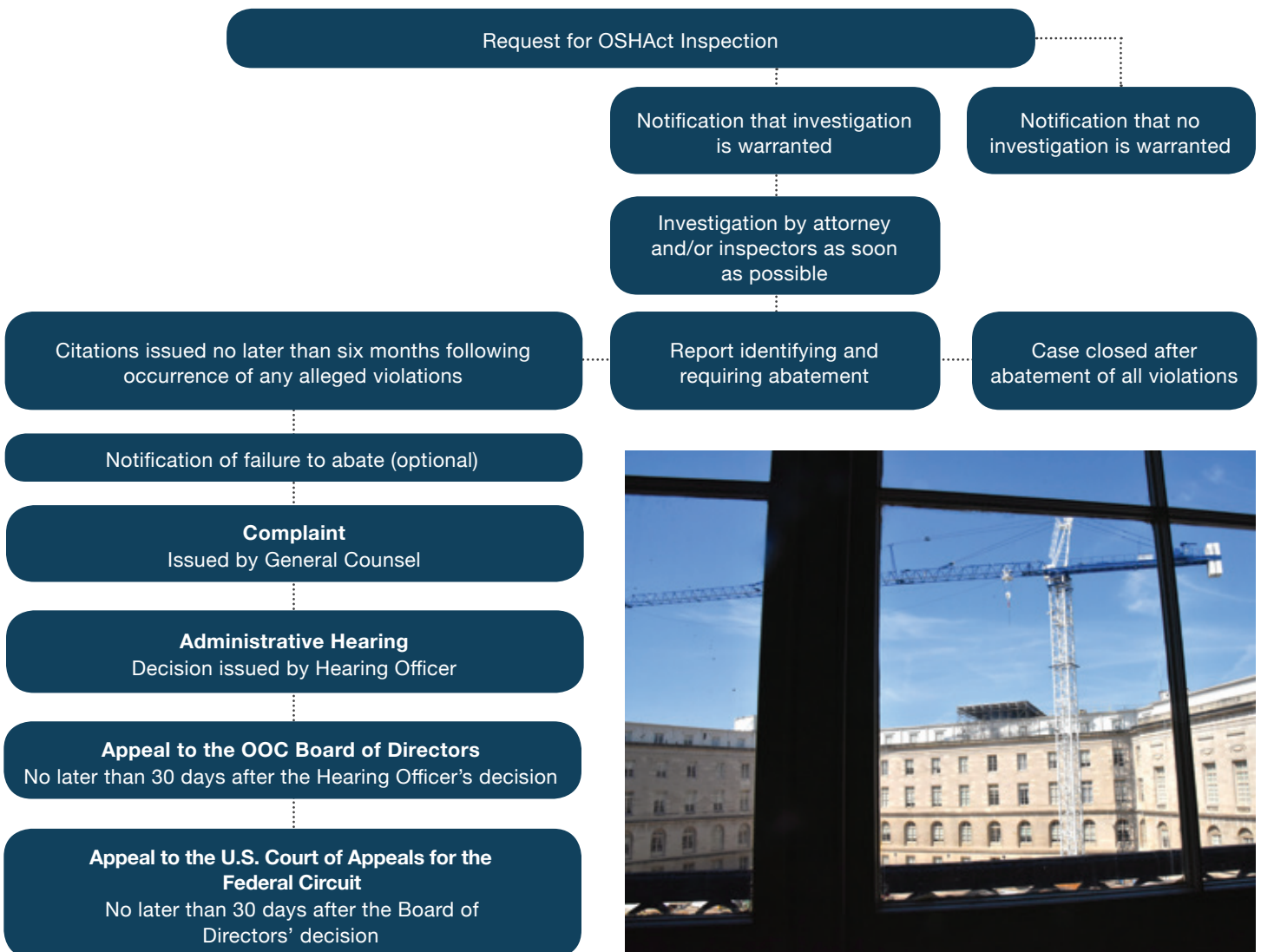
## THE SAFETY AND HEALTH PROVISIONS OF THE CAA

### Ensuring a Safe and Healthy Congressional Workplace

Under the CAA, the legislative branch must comply with the OSHAct and its standards requiring that the workplace be free from recognized hazards that are likely to cause death or serious injury. The Office of the General Counsel (GC) of the OOC inspects congressional properties biennially for such violations and reports them to the Speaker of the House and President Pro Tempore of the Senate. The OOC also provides information and technical assistance to employing offices that are responsible for abating workplace hazards.

The CAA provides that a congressional employee or employing office may file a Request for Inspection to determine if a dangerous working condition exists. The General Counsel is responsible for investigating the suspected unsafe working condition. When an investigation reveals a hazardous working condition, the GC may issue a notice or citation to the employing office that has exposed employees to the hazard and/or to the office responsible for correcting the violation. The office or offices are then responsible for remedying the hazard. If a hazardous condition is not corrected despite the issuance of a citation, the General Counsel can file an administrative complaint with the OOC and seek an order mandating the correction of the violation.

### Administrative Process for Alleged Violations of OSHAct (Request for Inspection Only)



The OOC worked with the AOC to ensure that the Cannon Building Renewal Project addressed ADA and fire safety issues.

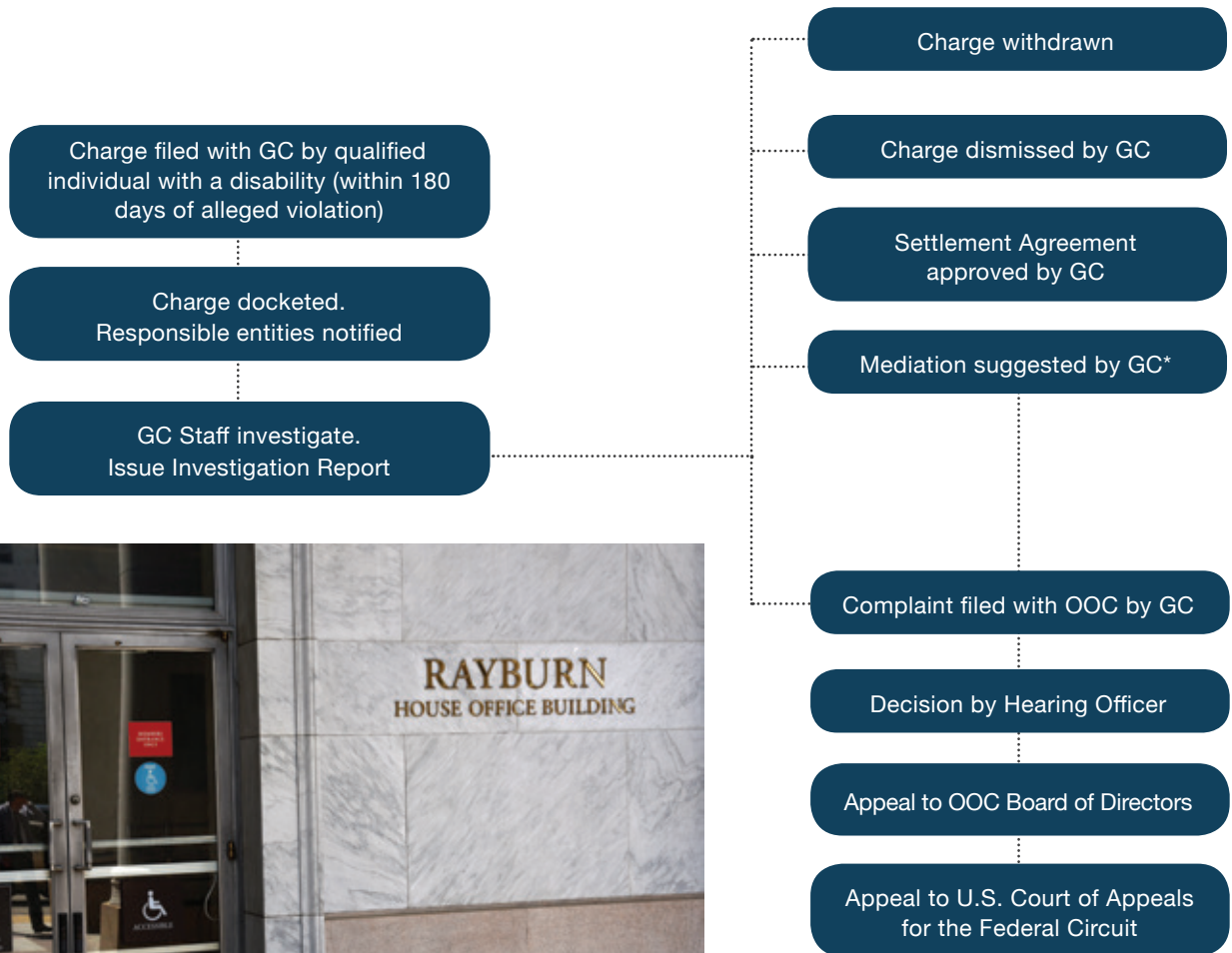
**THE AMERICANS WITH DISABILITIES ACT  
ACCESS PROVISIONS OF THE CAA  
ENSURING ACCESS TO CONGRESSIONAL  
SERVICES AND ACCOMMODATIONS FOR  
MEMBERS OF THE PUBLIC WITH DISABILITIES**

Section 210(f)(2) of the CAA requires that the General Counsel of the OOC inspect employing office facilities in the legislative branch for compliance with the rights and protections against discrimination in the provision of public services and accommodations for people with disabilities, established by Titles II and III of the Americans with Disabilities Act (ADA).

The CAA also provides that members of the public may file charges of discrimination alleging public access violations under the ADA. If an investigation reveals that a violation occurred, the General Counsel may request mediation to resolve the dispute or may file an administrative complaint with the OOC against the entity responsible for correcting the alleged violation.

This year, the Board of Directors received and considered comments from parties in response to its Notice of Proposed Rulemaking (“NPRM”) published on September 9, 2014, implementing the provisions of the ADA relating to public services and accommodations.

**Dispute Resolution Process for Alleged Violations of ADA Accessibility Laws**



\*Mediation is not mandatory



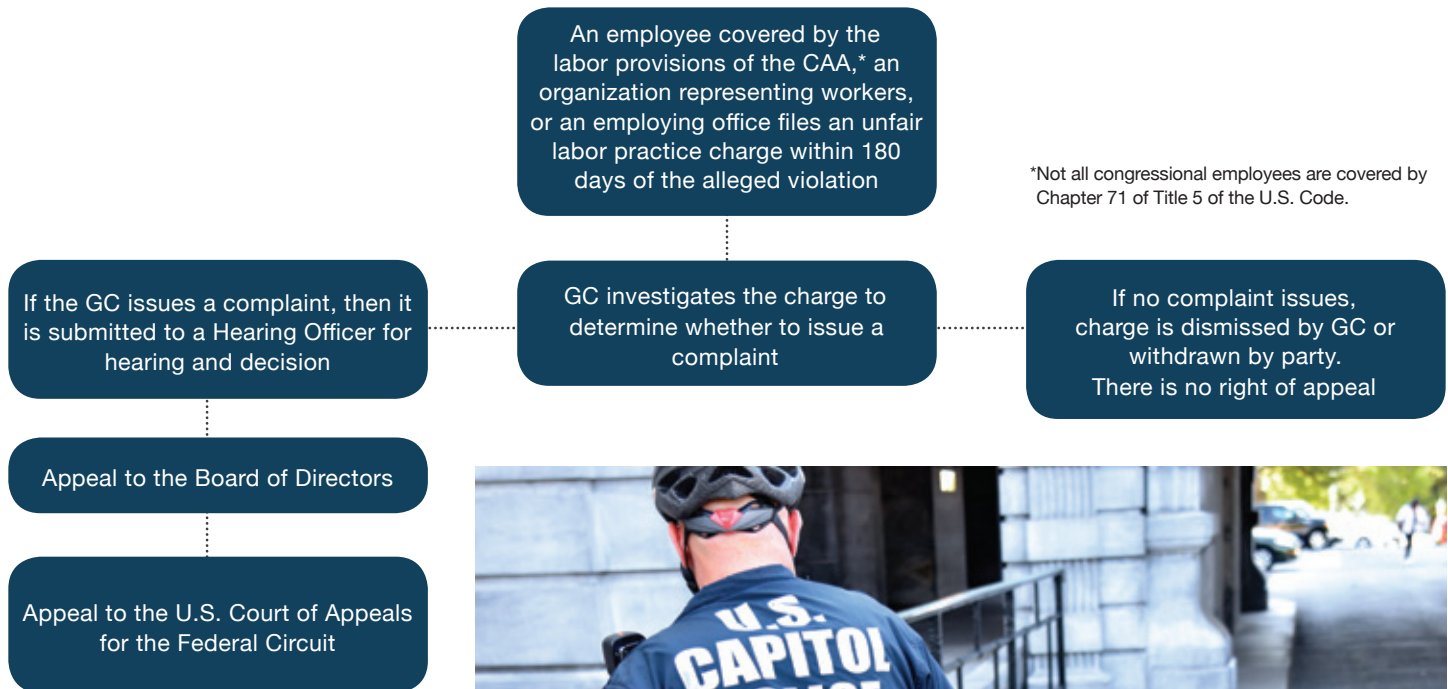
The doors of the Rayburn House Office Building provide wheelchair access.

## THE LABOR PROVISIONS OF THE CAA CONDUCTING REPRESENTATION ELECTIONS AND RESOLVING UNFAIR LABOR PRACTICE DISPUTES

The CAA grants some legislative branch employees collective bargaining rights under Chapter 71 of the Federal Service Labor-Management Relations Statute. The CAA protects employees' rights to form, join, or assist a labor organization without fear of penalty or reprisal. It also protects those who choose not to join or participate in a labor organization.

The Board of Directors of the OOC has the authority to issue final decisions on union representation and election issues, questions of arbitrability, and exceptions to an arbitrator's award. The Board also serves as the appellate body that issues decisions on unfair labor practice complaints. The General Counsel is responsible for investigating allegations of unfair labor practices and prosecuting those complaints before a Hearing Officer and the Board.

### Administrative Process for Alleged Violations of Federal Labor Laws



There are approximately 20 bargaining units represented by unions on Capitol Hill, including the Fraternal Order of Police representing the USCP.



“I’ve worked on sexual harassment issues for a long time, and I even learned things I didn’t know from the Congressional Office of Compliance.”

+ **Representative Jackie Speier (CA-14)**

### EDUCATION AND TRAINING ON THE CAA MANDATED TO PROVIDE CLEAR GUIDANCE

When it passed the Congressional Accountability Act, Congress recognized that ensuring compliance with the incorporated workplace laws would require, at a minimum, providing clear guidance regarding appropriate workplace behavior and the consequences of failing to comply with the CAA. As described below, Congress mandated that the OOC educate Members of Congress on their responsibilities, and inform legislative branch employees of their rights as outlined in the law.

The OOC believes that training for new employees on workplace rights is essential for all employees starting a career in the legislative branch. The benefits of regular training include staff retention and resultant success for an employing office. And neglecting to educate and update employees on workplace rights increases the risk of legal and regulatory violations that could lead to costly and disruptive litigation.

2 U.S.C. 1381(h)

(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[.]

The OOC recommends that supervisory employees receive training shortly after starting employment, and at least every two years after that, on the workplace requirements and responsibilities found under laws such as Title VII of the Civil Rights Act, the Family and Medical Leave Act, the Americans with Disabilities Act, and the Uniform Service Employment and Reemployment Rights Act. Non-supervisory employees should receive training to understand what constitutes discrimination and how to eliminate discriminatory behaviors from the workplace.

The OOC is not alone in its emphasis on training to prevent discrimination. Workplace research in both the public and private sectors consistently has found that a comprehensive anti-discrimination/harassment training program is the single most effective way to change both behavior and attitudes of employees within an organization. While many managers may believe that increasing training and awareness in a workforce will create more complaints, the data actually show that the number of complaints decreases because there is greater understanding of discrimination and harassment and a stronger commitment to safeguarding the workplace from illegal or inappropriate behavior.



“It has been my pleasure to support the OOC in its mandated mission to provide training to Members, supervisors, and employees alike on how to recognize and address sexual harassment.”

+ **Representative Susan Brooks (IN-5)**

Discrimination training is more important than ever because of the expanding diversity of the workforce, both in the private sector and here on Capitol Hill. And because of the developing law in these areas, regular updates and educational reinforcement are needed, in the same way as other areas of training are regularly implemented. For instance, if an employing office provides updated training for information technology issues, election laws, or legislative drafting, it should also incorporate training updates for workplace rights and responsibilities. It has long been the recommendation of the Board of Directors that this training be mandatory, and reinforced with a mandatory posting of the employee rights and responsibilities in every congressional workplace. This is, at a minimum, what is required in the private sector and throughout the executive branch agencies. The OOC commends those offices that have voluntarily posted the Notification of Rights in their workplaces and worked important anti-discrimination



training into the framework of their employee education and enrichment programs. We stand ready to work with any of the other employing offices wishing to do the same.

## IN-PERSON TRAINING

In FY2015, OOC's training efforts took the form of small, informal discussions as well as full-fledged training and educational programs conducted by staff from all departments in the Office, including the Office of the Executive Director, Office of General Counsel, Safety and Health, and ADR programs. Generally, the OOC's training programs were tailored to a requestor's needs. Some programs ran for 2 hours where 60 or more employees attended. Other training opportunities involved sitting with a few staff to discuss updating a handbook or ensuring that a new workplace policy complied with the CAA.

As a regular presenter at the Congressional Research Service's District/State Staff Institute (DSSI) conferences, the OOC has an opportunity to connect with hundreds of congressional staffers who live and work outside of Capitol Hill. An introductory survey of conference attendees shows that many have never heard of the Office of Compliance or realized that the Congressional Accountability Act affords them workplace protections. Because these are the same employees the agency relies on to keep the congressional state and district offices barrier and hazard-free under the OSHAct and ADA mandates of the CAA, we recommend that each new district employee be provided with relevant OOC online training and materials.

When CRS surveys were conducted after the OOC's presentations, close to 100% percent of the district staff attending the trainings either "agreed" or "strongly agreed" that useful information was presented clearly; that speakers were responsive to questions; and that they understood the topic better than before they attended the session. Participants overwhelmingly said they would recommend the session to others. OOC values its opportunities to engage with legislative branch employees and employers and hopes to continue providing in-person training in 2016.

## COLLABORATIVE EDUCATIONAL EFFORTS

This year, the OOC's education program included collaboration with outside groups and advocates who promote non-discrimination and focus their efforts on educating and updating the congressional community on workplace issues that overlap with the CAA laws. These groups included affinity organizations as well as representatives of the covered community.



"Employees and employing offices of the legislative branch should be familiar with their workplace rights and protections. Knowledge of the Congressional Accountability Act, and the labor and employment statutes it implements, leads to a better and more efficient working relationship for the worker and for management."

### + Representative Gregg Harper (MS-3)

Just a few of the OOC's FY2015 collaborative efforts in education and informational distribution included:

- Providing training for U.S. Capitol Police management and the Fraternal Order of Police.
- Providing guidance to the Congressional Management Foundation for its publications entitled *Setting Course, Navigating the First 90 Days*, and the *Congressional Intern Handbook*.
- Teaming with Congress and George Mason University to participate in and publish information on the Congressional Internship Program for Individuals with Intellectual Disabilities (CIIPIID).
- Publishing materials about organizations such as HillVets, the Wounded Warrior Project, and the Senate Sergeant at Arms Senate Armed Forces Internship Program to promote employment opportunities for veterans in the congressional community.
- Briefing Members of the Whistleblower Protection Caucus regarding potential expansion of rights for legislative branch employees.



The OOC provides in-person training for Congressional staff.



The OOC provides various educational publications on workplace rights and responsibilities under the CAA.



The online training module “Preventing Sexual Harassment in the Congressional Workplace” launched in June 2015.

We look forward to developing relationships with other organizations in the covered community that enjoy bi-partisan support and promote workplace rights and responsibilities.

### ONLINE WORKPLACE RIGHTS TRAINING AND MATERIALS

The OOC believes that even a short investment in time can help an employing office maintain compliance with workplace laws and promote an inclusive and respectful working environment for employees. Where resource constraints, busy schedules, or locations outside of DC may make in-person training impractical, the OOC has taken steps to provide more web-based learning opportunities. Computer-based training programs can be used as part of an effective and efficient training program in any office.

In FY2015, the OOC completed its first online interactive training module titled “Preventing Sexual Harassment in the Workplace.” The course is intended to foster a safe and productive work environment by training employees on what behavior is considered sexual harassment, how to prevent sexual harassment,

and what to do if they see or experience sexual harassment. Preventing sexual harassment in the workplace will save time and money, protect employees, and secure office morale.

In FY2016, the OOC will measure the results and surveys for the interactive module to help launch a similar module on reasonable accommodation requests under the ADA, as incorporated in the CAA. This, and a future module on the Family and Medical Leave Act will become part of the OOC Online Academy, which can be used by all employees and managers on Capitol Hill.

In this 20<sup>th</sup> anniversary year of the OOC, we recognize the progress we have made with our small staff and incredibly diverse mission, as well as the challenges ahead of us. As Members of Congress focus on promoting fair and safe workplaces in the private sector, they should also be sure to include their own workplaces. The OOC looks forward to continuing efforts to assist congress and the legislative branch agencies in providing the necessary resources and information to administer the Congressional Accountability Act.

# ON THE ADR PROGRAM

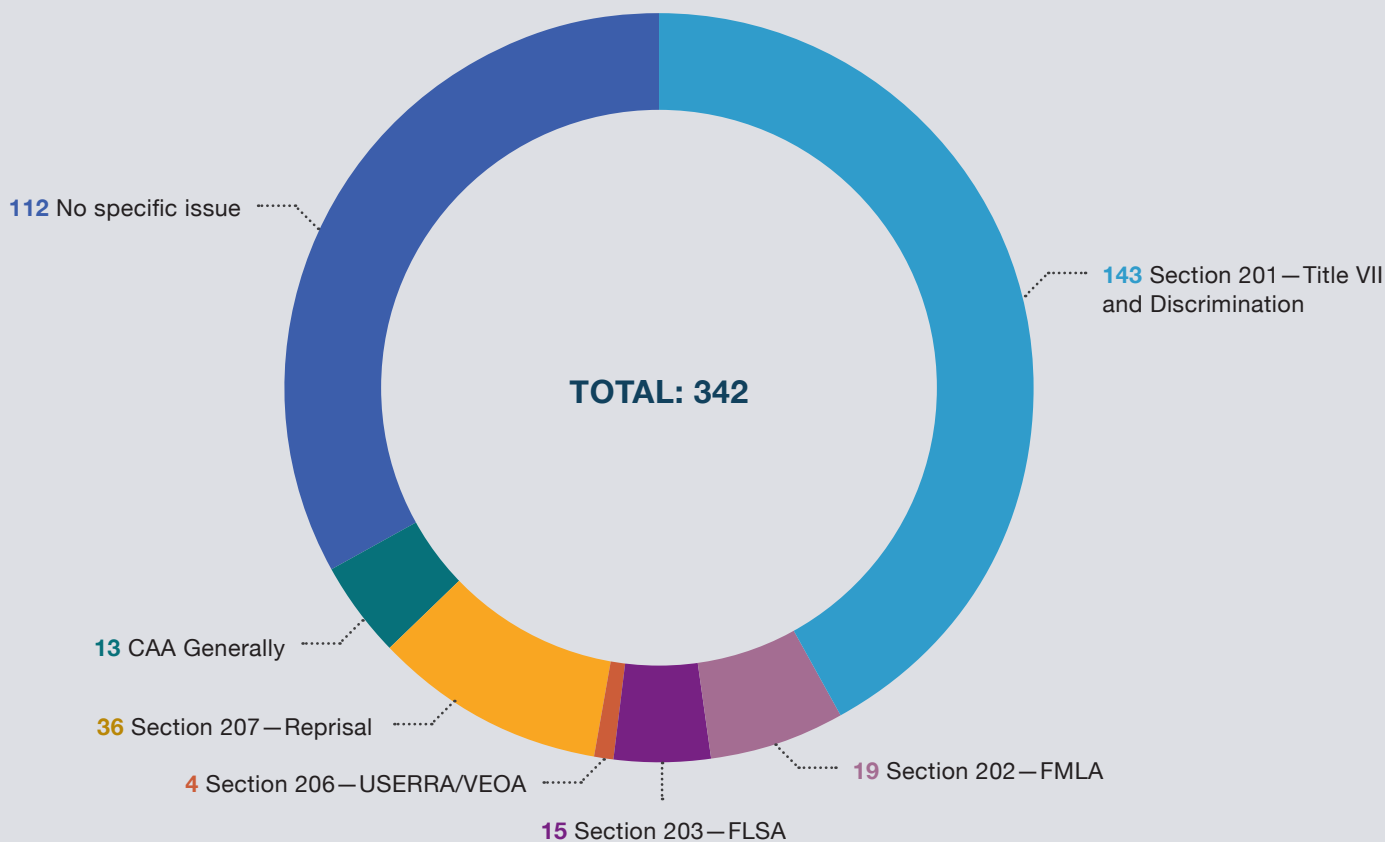
## ADMINISTRATIVE DISPUTE RESOLUTION PROGRAM FOR FY2015

This section discusses the number and types of claims made by covered employees who engage in the Administrative Dispute Resolution (ADR) program and the outcome of those proceedings.

Section 301 of the CAA requires the OOC to provide statistical data to Congress on “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 . . . and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint.” See Section 301(h)(3).

As discussed previously in this report, the OOC’s ADR program resolves most claims filed under the CAA. The process includes providing covered employees with confidential information about the rights of an employee, counseling, mediation, an administrative hearing, and an appeal process. Covered employees under the CAA include current and former employees, as well as applicants.

### + General Information Requests by Section of Law under the CAA (A single contact may allege a violation of more than one section of the CAA)



## RESOLVING WORKPLACE DISPUTES UNDER THE CAA

In FY2015, 306 Congressional employees, employing offices, unions, and members of the public contacted the OOC in person or by telephone to request information on their rights, responsibilities or protections under the CAA, and on the OOC's dispute resolution procedures. General inquiries made to the OOC do not necessarily initiate the formal dispute resolution process and, to protect an individual's right to seek guidance without fear of reprisal, all inquiries are kept private and confidential.

Providing informal advice and information to a covered employee gives the OOC an opportunity to directly address a particular issue and work with the employee to obtain an early resolution to a dispute. Sometimes, a dispute can be resolved by clarifying the individual's rights and responsibilities under the CAA, or by explaining how a relevant provision of the CAA applies to their issue. The OOC will assist an employee in understanding how the law applies to the facts of their dispute, and may suggest ways to address and resolve their claim by either addressing concerns directly to their employer without having to initiate formal proceedings, or by utilizing the ADR process under the CAA.

### + FY2015 ADR Proceedings at a Glance

63	New requests for counseling filed
16	Claims resolved during counseling
47	New requests for mediation filed
34	Claims resolved during mediation
11	ADR complaints filed <sup>1</sup>
8	Hearing Officer decisions issued
22	Total claims settled during ADR
8	Hearing Officer decisions appealed to the Board
6	Board decisions issued resolving ADR cases <sup>2</sup>
0	Board decisions appealed to the Federal Circuit <sup>3</sup>

<sup>1</sup> 2 administrative complaints arising under the labor-management provisions of the CAA were also filed with the Board of Directors of the OOC.

<sup>2</sup> The Board issued 6 decisions resolving 9 ADR cases on appeal.

<sup>3</sup> In FY2015, a decision by the Board of Directors, issued in 2013, was affirmed by the United States Court of Appeals.

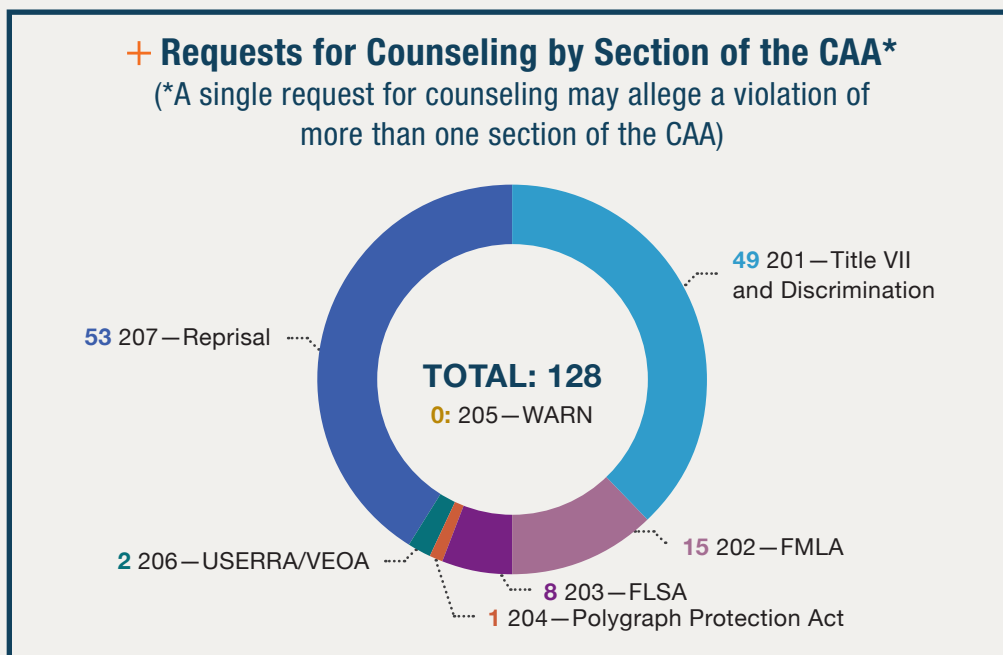
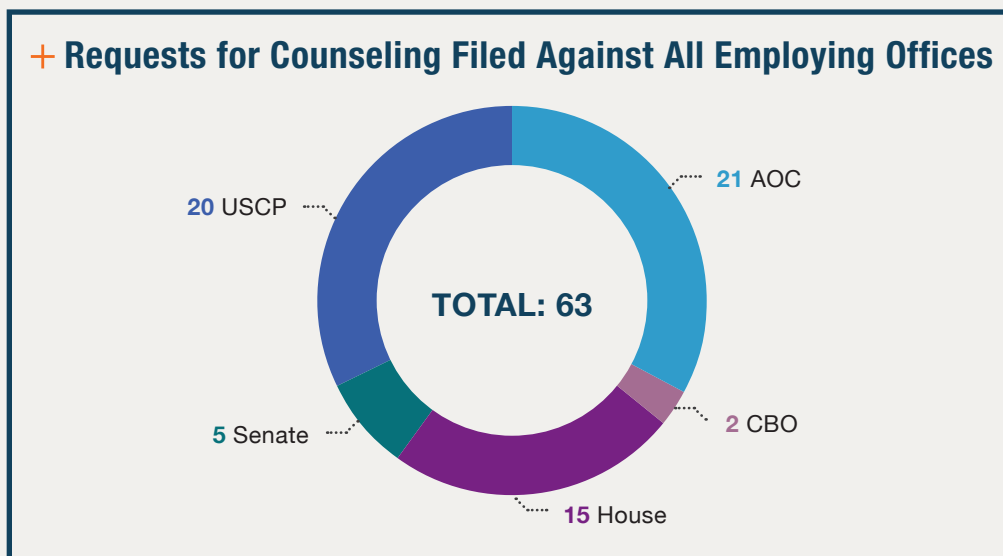


The Cannon House Office Building Rotunda

## COUNSELING UNDER THE CAA

Confidential counseling is the first step in the formal dispute resolution process. During counseling, an OOC counselor meets with the employee to discuss their concerns and the situation that gave rise to their claim. The counselor also provides the employee with information on the requirements under the law and the OOC procedures. The employing office is not notified by the OOC that the employee has filed a request for counseling because counseling between the employee and the OOC is strictly confidential.

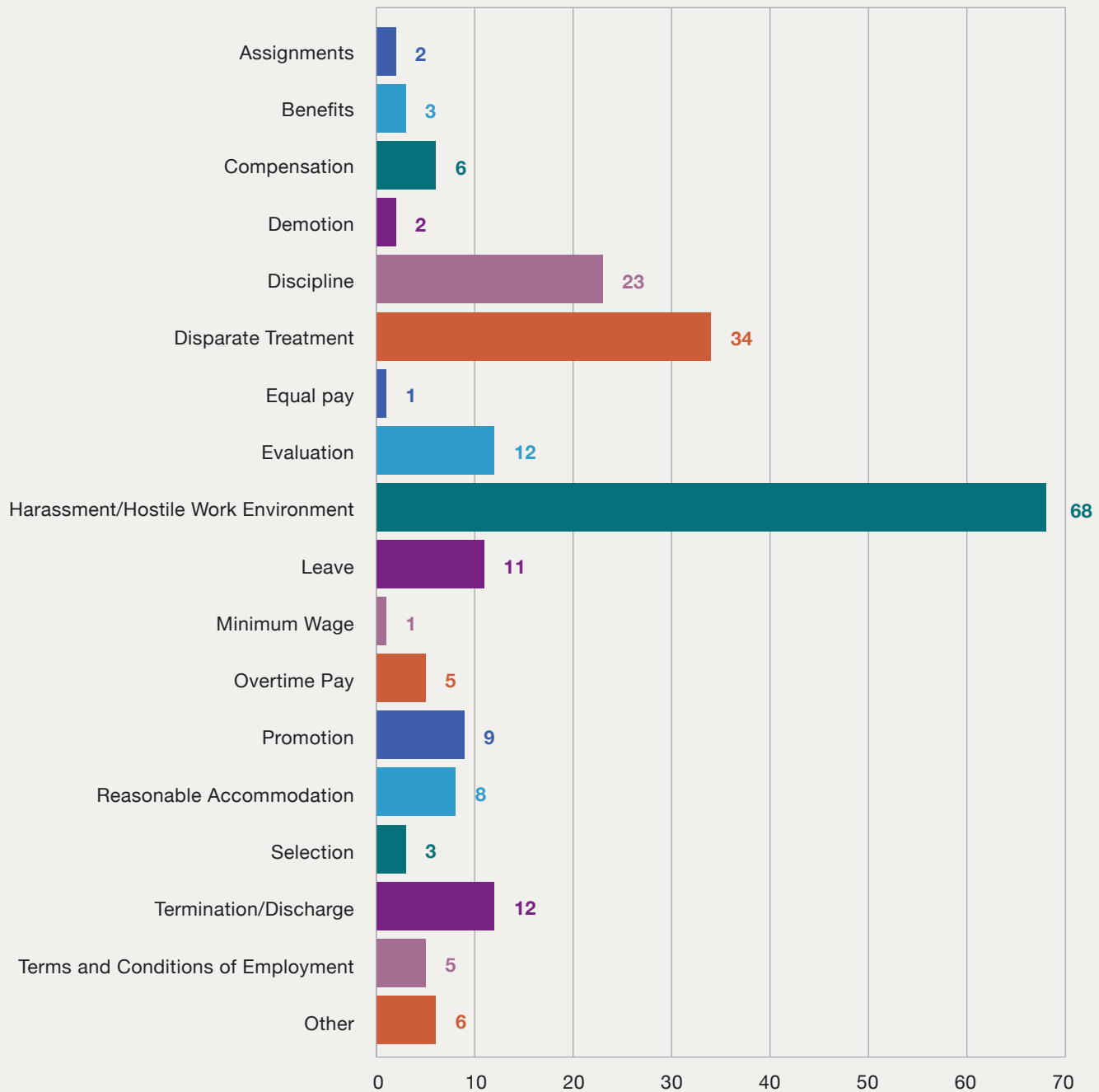
To formally assert and preserve a claim, a covered employee must file a formal request for counseling within 180 days of the alleged violation. Claims may be resolved during the counseling phase—by settlement, withdrawal, or a decision by the employee not to pursue a matter further.



COUNSELING UNDER THE CAA (CONTINUED)

+ Workplace Issues Raised with the OOC by Employees in Counseling

(A single request for counseling may involve more than one issue)



Most claims filed with the OOC allege discrimination and/or harassment based on race, sex, age, disability, or a combination thereof. Most cases are resolved confidentially under the CAA's administrative dispute resolution process.

## MEDIATION UNDER THE CAA

Confidential mediation is the second step in the dispute resolution process. An employee may request mediation only after completing confidential counseling. Most cases that move into the mediation phase are resolved in mediation. Again, some cases settle, some are withdrawn, and some are resolved when the mediated discussions clarify for the parties the issues that gave rise to the dispute. When a case proceeds to mediation, the employing office is notified about the claim and the parties attempt to settle the matter with the assistance of a neutral mediator appointed by the OOC. Even if mediation initially fails to settle the matter, it is not uncommon for the parties to revisit negotiations later in the process. Resolving cases during mediation can save the parties from burdensome litigation, which can be expensive, time consuming, and a drain on resources and productivity.

In FY2015, a total of 70 cases went through the mediation process. Some matters carried over in mediation from the previous year, and 47 new requests for mediation were filed.

## ADMINISTRATIVE HEARINGS UNDER THE CAA

An administrative hearing is the third step in the dispute resolution process. If parties fail to resolve their dispute in mediation, the employee may file an administrative complaint with the OOC and the case will be decided by a Hearing Officer in a confidential setting, or the employee can file a lawsuit in Federal District Court where the case would be a matter of public record.

In FY2015, covered employees filed 11 administrative complaints with the Office of Compliance and 5 civil suits in Federal District Court.

### + Administrative Complaint Proceedings

3	Complaints formally settled
8	Hearing Officer decisions issued
7	Cases pending in hearing going into FY2016



Approximately 30,000 employees work in the legislative branch of government.

## REVIEW BY THE BOARD OF DIRECTORS

The Board of Directors of the Office of Compliance (OOC) is comprised of five members, who are appointed by the joint leadership of the House of Representatives and the Senate. The five Members come from across the United States and are chosen for their expertise in employment and labor law. Their full biographies appear on the OOC website.

As the OOC appellate body, the Board of Directors issues final decisions resolving matters on review from Hearing Officers' rulings on such as issues as age, race, disability, and veterans status. The Board also reviews exceptions to arbitrators' awards filed pursuant to the labor-management provisions of the CAA.

While, like other legislative instrumentalities, the OOC works with its congressional oversight committees, the CAA explicitly prohibits oversight "with respect to the disposition of individual cases[.]" 2 U.S.C. 1381(i).

### + Petitions for Board Review

<b>10</b>	Cases resolved by decisions of the Board of Directors in FY2015
<b>4</b>	Cases remaining in the Appeals stage moving into FY2016

A significant number of cases (10) were decided by the Board in FY2015. Another four cases were pending before the Board at the end of the fiscal year.

In addition to the cases decided by the Board, a complex unfair labor practice case was pending before the Board at the end of the fiscal year. The OOC also processes representation petitions filed by labor organizations seeking to represent covered employees. In FY2015, a unit clarification petition was filed, seeking a decision on the question of whether to include certain employees in an existing bargaining unit.



Decisions by the Board of Directors set legal precedent for the interpretation and application of workplace rights in the legislative branch.

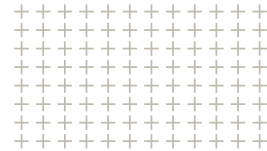
The Board is also responsible for issuing regulations implementing workplace laws under the Congressional Accountability Act, and making recommendations to Congress regarding which federal workplace, safety, and accessibility laws should be made applicable to the legislative branch. (See page 28). On September 16, 2015, the Board of Directors issued a notice of proposed rulemaking and requested comments from interested parties on updating the regulations implementing the Family and Medical Leave Act of 1993 (FMLA) as applied in the CAA.

In addition, after receiving multiple comments, the Board began its work of adopting regulations under the Americans with Disabilities Act that would ensure the rights of individuals with disabilities to full access to services, programs, activities, and accommodations on Capitol Hill and in district offices. Board adoption of the ADA regulations and submission to Congress for approval is expected in FY2016.



# SAFETY & HEALTH, ACCESS TO CONGRESSIONAL PUBLIC SERVICES & ACCOMMODATIONS, AND LABOR RELATIONS

The OOC is responsible for enforcing the Occupational Safety and Health Act of 1970 (OSHAct) in the legislative branch. In the Washington, DC metropolitan area alone, legislative branch properties cover over 18 million square feet. Over 30,000 employees occupy legislative branch facilities across the country, and millions of people visit the Capitol Complex each year.



## OSHAct, ADA, AND UNFAIR LABOR PRACTICE PROCEEDINGS

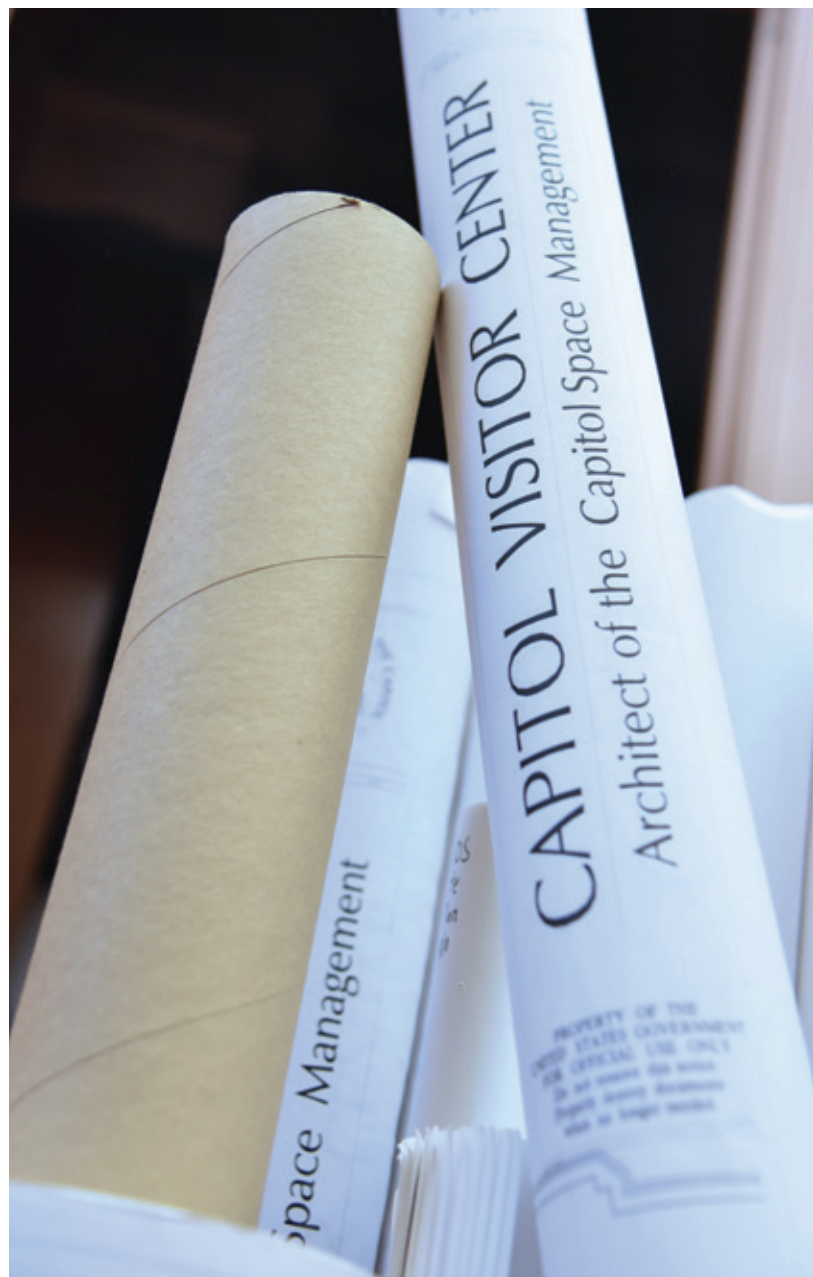
The General Counsel of the OOC is responsible for matters arising under three sections of the CAA: Section 215 (Occupational Safety and Health Act of 1970), Section 210 (Public Services and Accommodations under the Americans with Disabilities Act of 1990), and Section 220 (Unfair Labor Practices under Chapter 71 of Title 5, United States Code).

### OSHAct

This section of the Annual Report is a preview of some of the information that will be included in the Office of Compliance's report on occupational safety and health inspections conducted during the 114<sup>th</sup> Congress, which will be released in calendar year 2017.

The General Counsel of the OOC exercises the authorities granted to the Secretary of Labor under the OSHAct to inspect and investigate facilities where legislative branch employees are working. The General Counsel may issue citations to the employing office for violations and file complaints with the OOC's Executive Director against the employing office if a violation has not been corrected. The General Counsel also assists in writing substantive regulations, issued through the Board of Directors of the OOC, where a modification of the substantive regulations promulgated by the Secretary of Labor would be more effective for implementing the OSHAct in the legislative branch.

The OSH team in the Office of the General Counsel conducts inspections for the biennial report, responds to requests for inspection, and provides technical assistance. The CAA requires that at least once each Congress, the General Counsel conduct inspections of all facilities of the House of Representatives, the Senate, the Office of Congressional Accessibility Services, the Capitol Police, the Congressional



The OOC inspects the Capitol Visitor Center for ADA and safety issues.

## + SAFETY & HEALTH, ACCESS TO CONGRESSIONAL PUBLIC SERVICES & ACCOMMODATIONS, AND LABOR RELATIONS

Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Library of Congress, and the Government Accountability Office. Due to resource constraints, the General Counsel moved to a risk-based OSH inspection program beginning in the 112<sup>th</sup> Congress, and continuing into the present, that focuses on inspecting and assuring the abatement of higher-risk hazards that pose the greatest threat of fatalities and injuries to workers and building occupants. The General Counsel no longer inspects every area of “all facilities” at least once each Congress.<sup>4</sup>

The OOC issued our joint report on the inspections from the 112<sup>th</sup> and 113<sup>th</sup> Congresses in August 2015, detailing the types of hazards found during the inspections, as well as the employing offices’ progress in abating those hazards. This was the first report issued under the new program of inspecting higher-hazard areas across the Capitol Complex. Among other improvements to the inspection process, the inspections during the 112<sup>th</sup> and 113<sup>th</sup> Congresses included an increase in the number of facilities inspected and an increase in the number of inspections conducted while employees were actually working, which revealed hazards that can only be discovered while observing ongoing work operations. The inspections also featured a greater focus on worker safety and health programs.

In FY2015, the OSH team commenced its inspections of the 114<sup>th</sup> Congress. We continue to build upon the higher hazard focus implemented during the past two Congresses, including fire safety concerns and areas of special interest. In FY2015, we completed roughly half of the planned inspections for the 114<sup>th</sup> Congress, which encompassed, among others, numerous locations associated with the Library of Congress, the House of Representatives, and the Capitol Police. We plan to inspect a total of 78 facilities during this Congress, compared with 68 in the 113<sup>th</sup> Congress. Among the facilities being inspected for the first time is the Thomas P. O’Neill, Jr. Federal Building, a former laboratory for the Food and Drug Administration that was gutted and redesigned to house employees of the U.S. House of Representatives and others.

In our inspections, we are targeting high-hazard workplaces and work operations, with a particular focus on the AOC’s Construction Division, as well as worksites with repeat RAC I and II findings.<sup>5</sup> We are also inspecting certain special interest



OOC specialists conduct OSHA inspections.

areas, such as the Little Scholars Child Development Center, the Senate Page Dorm and School, and the Capitol Police K9 unit kennels. This Congress, the scope of our inspection has expanded to include all Member offices in the House and Senate, as well as all public assembly areas in legislative branch buildings. Finally, we continue to evaluate all programs required under the OSH standards, including hazard communication, respiratory protection, personal protective equipment, permit-required confined spaces, and others.

Our inspections during the 114<sup>th</sup> Congress also include verification of the abatement status of the most serious hazards identified during the 113<sup>th</sup> Congress inspection. In opening conferences conducted with employing offices, we provide a list of all open findings identified in our Facility Management Assessment database, and enlist the assistance of employing offices to provide abatement status updates for all findings that are currently shown as open. We also continue to inspect newly occupied or renovated facilities.

For the first time in several years, the OOC has re-established its Safe Office Awards program, to recognize those Member offices in the

<sup>4</sup> For remote legislative facilities, such as district and state offices, the OOC provides technical assistance that enables them to conduct self-inspections, and responds to questions about possible workplace hazards.

<sup>5</sup> The OOC uses a Risk Assessment Code (RAC) system to classify hazards. RACs are classified in descending order of severity and likelihood of occurrence, from RAC I to RAC IV. “Higher risk” refers to hazards rated RAC I or RAC II.

Senate and House of Representatives that are maintained as hazard-free workplaces. Upon completion of the Member office inspections, the OOC will present awards to those offices in a special ceremony, in conjunction with the National Safety Council. One or two Safety Advocate awards will also be presented to recognize individuals who have made substantial contributions to improving safety in legislative branch facilities.

Among the nine requestor-initiated inspections opened in FY2015, the General Counsel worked with representatives of the AOC on five, with concerns including possible asbestos exposure, indoor air quality issues, occupational noise levels, and safety of utility tunnels. Another request, pertaining to the safety of rooftop flag raising and lowering activities, involved representatives of both the AOC and the Capitol Police. Two requests, both related to possible safety hazards arising from book storage methods, required the participation of both the AOC and the Library of Congress. One request was received from an employee of the OOC and involved indoor air quality concerns. During FY2015 we were able to close one of those newly-opened cases along with nine others from previous years. We also received sixteen inquiries regarding safety and health concerns that did not become cases, either because the issue was not within our jurisdiction or because we were able to quickly resolve the matter by providing technical assistance.

In FY2015, to help address the fire and life safety hazards in the Russell Senate Office Building, we worked with the AOC to identify and hire an independent fire safety expert with experience abating hazards in historically significant buildings.



Section 210 of the CAA provides rights under the ADA relating to public services and accommodations on Capitol Hill.

The fire safety expert has met with the interested parties and issued a report that has assisted all of us in the development of an abatement plan addressing these fire and life safety hazards in a manner that will be satisfactory to all concerned.

## AMERICANS WITH DISABILITIES ACT (ADA)

This section of the Annual Report is a preview of some of the information that will be included in the Office of Compliance's *114<sup>th</sup> Congress Biennial Report on Americans with Disabilities Act Inspections Relating to Public Services and Accommodations*, which will be released in 2017.

The CAA requires the General Counsel, on a regular basis, and at least once each Congress, to inspect the facilities of each office of the Senate, each office of the House of Representatives, each joint committee of Congress, 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, and the Office of Compliance, to ensure compliance with the rights and protections against discrimination in public services and accommodations established under Titles II and III of the Americans with Disabilities Act of 1990 (ADA).

To conduct these inspections, the General Counsel uses contractors from Evan Terry Associates, as well as some of the same OSH specialists who conduct OSHAct inspections. The OSH specialists may report obvious ADA issues observed during an OSHAct inspection, and also occasionally conduct a joint ADA and OSHAct inspection when this will be more efficient. The ADA inspection for the 114<sup>th</sup> Congress covers the entrances to legislative branch facilities and the accessible pathways from the entrances of the facilities to the major function areas. We are also looking at access issues in the public areas of Members' offices as part of the OSHAct inspection of those offices. During FY2015, ADA inspections were conducted in the U.S. Botanic Garden and the Cannon, Longworth, and Rayburn House Office Buildings, and we also completed the inspections of exterior pathways that had begun during the 113<sup>th</sup> Congress.<sup>6</sup>

The OOC published a notice of proposed rulemaking for ADA regulations on September 9, 2014. During FY2015, we reviewed comments and prepared responses for final approval of the regulations by Congress.

<sup>6</sup> The 113<sup>th</sup> Congress Biennial Report on Americans with Disabilities Act Inspections Relating to Public Services and Accommodations will be released in 2016.

## + SAFETY & HEALTH, ACCESS TO CONGRESSIONAL PUBLIC SERVICES & ACCOMMODATIONS, AND LABOR RELATIONS



The OOC General Counsel acts as the Secretary of Labor for OSHAAct matters on the Hill.

During FY2015, the OOC received two requests for ADA inspections. One involved concerns over access to Library of Congress facilities for individuals with mobility assistive devices, such as crutches and canes, resulting from the Capitol Police security screening process. The other involved issues with the accessibility of a Member's website for deaf and hard-of-hearing individuals. We were able to resolve and close one of those cases, as well as three other cases from previous years. We also received ten inquiries regarding ADA compliance issues that did not become cases, either because the issue was not within our jurisdiction or because we were able to quickly resolve the matter by providing technical assistance.

### UNFAIR LABOR PRACTICES

Section 220 of the CAA makes the Federal Service Labor-Management Relations (FSLMR) Statute<sup>7</sup> applicable to covered employees and employing offices within the legislative branch, and prohibits unfair labor practices by both employing offices and labor organizations.

### + Parties To ULP Charges Filed In FY2015

Cases	Charging Party	Charged Party
6	Labor Committee, Fraternal Order of Police	United States Capitol Police
4	AFSCME	Office of the Architect of the Capitol
2	NABET-CWA	Chief Administrative Officer, House of Representatives
1	United States Capitol Police	Labor Committee, Fraternal Order of Police

### + LMR Cases Closed In FY2015

Cases	Outcome
8	Settled by the parties
5	Withdrawn at General Counsel's request
3	Dismissed by General Counsel
2	Dismissed by General Counsel with warning to charged party

### + Types Of ULP Charges Filed In FY2015

Cases	Allegations
2	Denial of representation/interference with right to representation
4	Violation/repudiation of agreement
3	Failure to bargain in good faith
2	Retaliation for union activity
1	Coercion
1	Failure to comply with arbitration order

<sup>7</sup> U.S. Code Title 5, Chapter 71

The CAA gives the General Council of the OOC investigative and prosecutorial authority equivalent to that granted by the FSLMR Statute to the General Council of the Federal Labor Relations Authority (FLRA) with respect to charges of unfair labor practices. Whereas complaints filed by the FLRA General Council are heard by Administrative Law Judges, reviewed by the Authority, and may be appealed to a variety of federal courts, complaints filed by the OOC General Council are treated similarly to discrimination and other cases handled by the OOC: they are heard by a Hearing Officer, reviewed by the Board of Directors, and ultimately appealed to the United States Court of Appeals for the Federal Circuit. Substantively, however, the protections afforded to legislative branch employees are the same as those for executive branch employees, as are the rights and duties of employees, unions, and employing offices.

The OOC has jurisdiction over approximately twenty bargaining units, most of which are comprised of employees of the Architect of the Capitol. Many employees of the Capitol

Police, and certain employees of the House of Representatives and the Senate, are also represented by labor organizations. AFSCME Council 26 represents the most bargaining units, followed by the NABET-CWA and the Teamsters. A wide variety of employees are unionized, including police officers, masons, carpenters, electricians, plumbers, freight and material handlers, guides and visitor assistants, power plant laborers, photographers and videographers, and clerical and administrative workers.<sup>8</sup>

In FY2015, the General Council filed two unfair labor practice complaints, both of which were decided by a Hearing Officer and appealed to the Board of Directors of the OOC. The General Council received and investigated a total of thirteen unfair labor practice charges during FY2015. We closed seven of those cases, along with eleven other cases from previous years. We also received three charges that did not become cases because the General Council deemed them deficient, and one inquiry over which we did not have jurisdiction.



The OOC inspects the Supreme Court building to ensure ADA public access and safety.

<sup>8</sup> Additional labor organizations on Capitol Hill, such as the unions representing Library of Congress employees, do not fall under the jurisdiction of the OOC.

# 102(B) REPORT

The CAA requires the OOC to recommend federal workplace rights, safety, health, and accessibility laws that should be made applicable to Congress and its agencies.

These are some of the recommendations made by the Board of Directors in previous biennial reports submitted to Congress pursuant to Section 102(b) of the CAA. All 102(b) reports are available on the OOC website at [www.compliance.gov](http://www.compliance.gov).

## **Recommendation #1: Mandatory Anti-Discrimination and Anti-Retaliation Training for All Congressional Employees and Managers**

### **CONGRESS AND ITS AGENCIES ARE EXEMPT FROM TRAINING PROVISIONS**

#### **5 U.S.C. § 2301 note (No FEAR Act of 2002) (Training Provision)**

Section 202(c) of the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act) requires each Federal agency in the executive branch to provide training for employees regarding their rights and remedies under anti-discrimination and anti-retaliation laws. By regulation, all current executive branch employees and managers must receive training at least every two years. New employees receive training as part of their orientation or within 90 days of appointment.

As discussed earlier in the Annual Report, anti-discrimination and anti-retaliation training for employees provides many benefits in the workplace. By informing employees about their rights, they learn to differentiate between what the laws do and do not prohibit. Employees also learn how to seek redress for violations of their rights and the remedies available to them under the law. Training informs managers of their obligations as supervisors and about best practices for handling discrimination and retaliation issues. Mandatory training has the effect of reducing discrimination and retaliation claims, improving the workplace environment, and lowering administrative and legal costs. The OOC feels it is important for Members of Congress and their staff to be trained on their workplace rights and responsibilities, which could reduce the number of claims brought under the CAA.

## **Recommendation #2: Require Notice-Posting of Congressional Workplace Rights in All Employing Offices**

### **CONGRESS AND ITS AGENCIES ARE EXEMPT FROM NOTICE-POSTING PROVISIONS**

42 U.S.C § 2000e-10(a)(Title VII)  
29 U.S.C. § 2003 (EPPA)  
29 U.S.C. § 627 (ADEA)

38 U.S.C. § 4334(a) (USERRA)

42 U.S.C. § 12115 (ADA)

29 U.S.C. § 657(c) (OSHA)

29 U.S.C. § 211 (FLSA/EPA)

5 U.S.C. § 2301 note (notice-posting provision of No FEAR Act)

29 U.S.C. § 2619(a) (FMLA)

To ensure that workplace rights are upheld, most Federal antidiscrimination, anti-harassment, safety and health, and other workplace rights laws require that employers prominently post notices of those rights and information pertinent to asserting claims for alleged violations of those rights. Notice-posting informs employees about basic workplace rights, remedies, and how to seek redress for alleged violations of the law. Postings remind employers of their obligations and consequences for failure to follow those laws. Although the CAA requires the OOC to distribute informational material “in a manner suitable for posting,” it does not mandate the actual posting of a notice in the workplace. Applying notice-posting requirements to Congress would provide an additional source of information for employees about their rights. The Board recommends that Congress and its agencies follow workplace rights notice-posting requirements that currently apply to the private sector and the federal executive branch.

## **Recommendation #3: Whistleblower Protections for Disclosing Violations of Laws, Rules or Regulations, Gross Mismanagement, Gross Waste of Funds, Abuses of Authority, or Substantial and Specific Dangers to Public Health**

### **CONGRESS AND ITS INSTRUMENTALITIES ARE EXEMPT FROM PROTECTIONS OF THE WHISTLEBLOWER PROTECTION ACT OF 1989, AS AMENDED**

Congress passed the Whistleblower Protection Act of 1989 (WPA) to protect federal workers in the executive branch from retaliation for reporting violations of laws, rules or regulations, gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Since that time, Congress has also passed other whistleblower protection laws, such as the Sarbanes-Oxley Act, to protect employees in the private sector who report similar violations. As Congress has recognized, employees are often in the best position to know about and report violations of law, waste, mismanagement, and abuse in government; and they need protections against retaliation when they disclose these violations. Furthermore, whistleblowers save taxpayer dollars. The Board of Directors recommends that Congress apply to the legislative branch appropriate provisions of the WPA, to provide congressional employees protections from retaliation.

# APPENDIX

## STRATEGIC PLAN

(AS EXCERPTED FROM FY2013–FY2015 STRATEGIC PLAN)

### GOAL I:

**Educate and communicate to the covered community the rights and responsibilities under the CAA, and the services and technical expertise provided by the OOC.**

### GOAL II:

**Facilitate the identification and resolution of workplace disputes and issues involving claims arising under the Congressional Accountability Act, including discrimination, safety and health, accessibility, veterans rights, LMR, and other statutory rights.**

### GOAL III:

**Build relationships and expand support among the covered community and the public to advance the mission of the Agency.**

### GOAL IV:

**Provide opportunities for the professional development of the Agency's workforce.**

## MEASURING SUCCESS

The end of FY2015 marked the conclusion of the three-year Strategic Plan. A new Strategic Plan available on the OOC website has been developed for FY2016–FY2018.

The OOC has seen many achievements under its FY2013–FY2015 Strategic Plan. The initiatives involving social media allowed for more measureable data on contacts with stakeholders and the congressional community as a whole. Improved methods of communication and technologically advanced tools made it easier for the congressional community to access OOC services and publications, and to reach Members and employing offices. These newly developed in-person and online training methods assisted the Agency in meeting its education and training mandate.

The OOC's infrastructure was updated to increase its ability to provide quality case administration and advancements. While increased funding is necessary for a complete system upgrade that would afford e-filing and streamline other case handling processes, staff of the entire office collaborated to develop the plans to improve case tracking and manage the caseload with a new case management system.

During the Plan period, the OOC staff solidified relationships within the covered community, including with AOC and LOC representatives to whom they have provided technical assistance to quickly resolve safety and health matters. These developing partnerships with different employing offices, associations, and organizations has led to more open dialog with the congressional entities and worthwhile cooperative efforts including re-establishing the Safe Office Awards after several years without the program. The goals for the future have been adjusted to again recognize the importance of outreach, communications, and staff professional development.



The OOC is located in the John Adams Building of the Library of Congress.

## ACRONYMS

ADR: Administrative Dispute Resolution

ADA: Americans with Disabilities Act

AOC: Architect of the Capitol

CVC: Capitol Visitor Center

CAA: Congressional Accountability Act of 1995

CBO: Congressional Budget Office

CMF: Congressional Management Foundation

EPPA: Employee Polygraph Protection Act

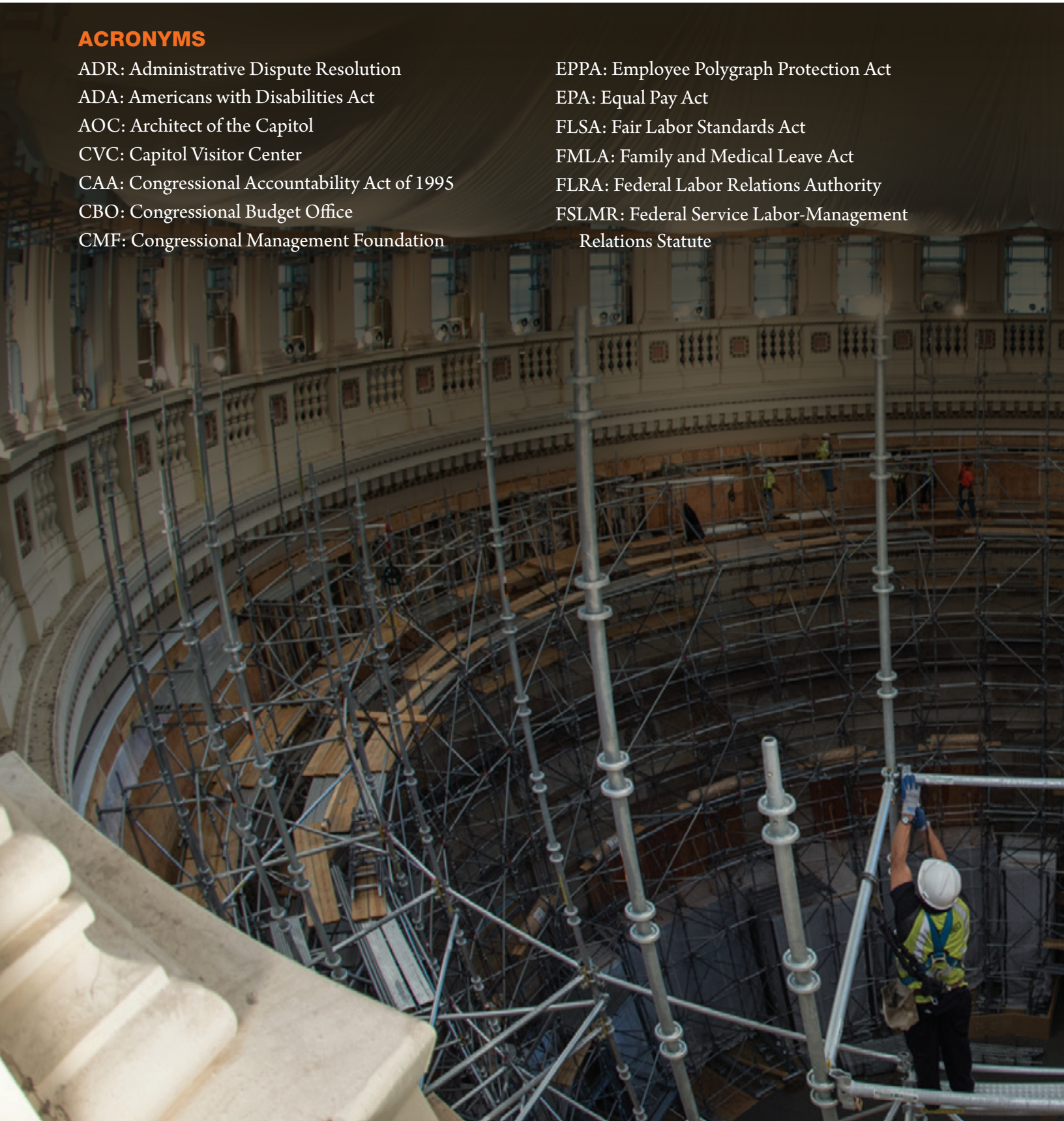
EPA: Equal Pay Act

FLSA: Fair Labor Standards Act

FMLA: Family and Medical Leave Act

FLRA: Federal Labor Relations Authority

FSLMR: Federal Service Labor-Management  
Relations Statute



The AOC works to remove hazardous materials from the Rotunda during the Capitol Dome Restoration Project.



GC: General Counsel of the Office of Compliance  
GINA: Genetic Information Nondiscrimination Act  
GAO: Government Accountability Office  
GPO: Government Printing Office  
LOC: Library of Congress  
OSH: Occupational Safety and Health  
OSHAct: Occupational Safety and Health Act

OOC: Office of Compliance  
RAC: Risk Assessment Code  
ULP: Unfair Labor Practice  
USERRA: Uniformed Services Employment and  
Reemployment Rights Act  
VEOA: Veterans Employment Opportunities Act  
WARN: Worker Adjustment and Retraining Act



Photo Credit: AOC







Answer: 25

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