

OFFICE OF  
COMPLIANCE  
FY2017  
ANNUAL  
REPORT



**STATE OF THE  
CONGRESSIONAL WORKPLACE**

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





**On January 23, 1996, the Office of Compliance (OOC) first opened its doors to enforce the Congressional Accountability Act of 1995 and workplace protection laws from which Congress had previously been exempt.**

# By the Numbers (FY17)

The OOC has made extraordinary strides in accomplishing its statutory mission to improve the safety of the legislative branch, respond to the rights and needs of persons with disabilities, and educate its constituency on workplace laws.



**452**

number of employing offices and jurisdictions inspected by OOC safety & health specialists



**159**

safety awards presented



**18 million**

square feet of legislative branch facilities



**47**

requests for counseling



**10**

cases resolved in mediation



**30,000**

legislative branch employees covered by the CAA

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View of the Capitol dome fresco, which is suspended 180 feet above the Rotunda floor.





## CONGRESSIONAL WORKPLACES COVERED BY THE CAA



Congressional Budget Office



Government Accountability Office\*



House of Representatives



LIBRARY OF CONGRESS

Library of Congress



Architect of the Capitol



Office of Compliance



Office of the Attending Physician



Office of Congressional Accessibility Services



Senate



United States Capitol Police

*\*Certain provisions of the CAA do not apply to the Government Accountability Office; however, their employees may have similar legal rights under different statutory provisions.*

# Your Rights in the Congressional Workplace

As a legislative branch employee, you are protected by the Congressional Accountability Act of 1995 (CAA). To assert your rights under the CAA, you must file a claim within 180 days of an alleged violation. Please visit [www.compliance.gov](http://www.compliance.gov) for further information about your rights or contact the OOC at (202) 724-9250. All contacts are strictly confidential.

## **PROTECTION FROM UNLAWFUL DISCRIMINATION**

Prohibits harassment and discrimination in personnel actions based on race, color, national origin, sex, religion, age, or disability.  
CAA SEC. 201

## **FAMILY & MEDICAL LEAVE**

Provides rights and protections for employees taking or requesting leave for specified family and medical reasons.  
CAA SEC. 202

## **FAIR LABOR STANDARDS**

Requires the payment of minimum wage and overtime compensation to nonexempt employees, restricts child labor, and prohibits sex-based wage differentials.  
CAA SEC. 203

## **POLYGRAPH TESTING PROHIBITION**

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.  
CAA SEC. 204

## **NOTIFICATION OF OFFICE CLOSINGS & MASS LAYOFFS**

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.  
CAA SEC. 205

## **UNIFORMED SERVICES RIGHTS & PROTECTIONS**

Protects the job rights of individuals who leave employment positions to undertake military service and prohibits discrimination on the basis of present or past membership in the uniformed services.  
CAA SEC. 206

## **PROTECTION FOR EXERCISING WORKPLACE RIGHTS**

Prohibits employing offices from intimidating or retaliating against employees who exercise their rights under the CAA.  
CAA SEC. 207

## **ACCESSIBILITY**

Protects members of the public who are individuals with qualified disabilities from being denied access to public services, programs, activities, or places of public accommodation in the legislative branch.  
CAA SEC. 210

## **HAZARD-FREE WORKSPACES**

Requires that all workplaces be free of recognized hazards that are likely to cause death or serious injury.  
CAA SEC. 215

## **COLLECTIVE BARGAINING & UNIONIZATION**

Protects the rights of certain legislative branch employees to form, join, or assist a labor organization or to refrain from such activity.  
CAA SEC. 220

## **GENETIC INFORMATION NONDISCRIMINATION & PRIVACY**

Prohibits the use of genetic information as a basis for personnel actions.  
GINA TITLE II

## **VETERANS' EMPLOYMENT OPPORTUNITIES**

Gives eligible veterans enhanced access to certain job opportunities and establishes a redress system in the event that their veterans' preference rights are violated.  
VEOA SEC. 4(c)

# Statement from Chair of Board



**“Members of Congress and their dedicated staffs are working to improve the CAA to ensure that the legislative branch is a safe and equitable place to work.”**

On behalf of the Board of Directors of the Office of Compliance (OOC), I am pleased to present our Annual Report on the State of the Congressional Workplace for FY17. Although the report covers FY17, I would be remiss not to mention all that has happened since FY18 began. Capitol Hill, like so much of the rest of this country, has been moved by the knowledge that sexual harassment has existed within its work environments. Members of Congress and their dedicated staffs are working to improve the CAA to ensure that the legislative branch is a safe and equitable place to work.

Our Board takes enormous pride in the work of the OOC’s professional staff and their many accomplishments in FY17. The work we do on behalf of the legislative branch is equivalent to that performed by numerous executive branch agencies, including the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, the Department of Labor, and the Department of Justice.

Our collective undertaking seeks to provide the most effective services for advancing workplace protections and public access for the congressional community, including the 30,000 legislative branch employees working on the Hill and in 1,200 offices nationwide, and the 1.3 million annual visitors to the Capitol. The Board and OOC staff look forward to achieving this mission.

Sincerely,  
Barbara Childs Wallace  
Chair, Board of Directors

# Statement from Executive Director

It is my privilege to present the Office of Compliance's Annual Report for FY17. Having taken over the helm in January 2017, I have been proud to build on the many accomplishments of my predecessor Barbara Sapin. As we go to print, major events are reverberating through our legislative community. Our jurisdiction has expanded and reforms of our process are being considered. A special section of this Report covers these topics as well as the OOC's response to Capitol Hill's heightened focus on combatting sexual harassment. For example, in just one six-week period, the OOC saw a triple-digit percentage increase in requests for anti-sexual harassment training from congressional workers.

Looking back, 2017 was a dynamic year of growth and expansion. It marked the first time since 2010 that the OOC presented its Safety Recognition Awards in partnership with the National Safety Council. We recognized two individuals for outstanding contributions to legislative branch safety, and those Senators and Representatives who maintained hazard-free offices during the 114th Congress. The OOC also convened a Mediators and Hearing Officers Summit to discuss current legal developments and share best practices. We continue to process cases without a backlog, and the Board of Directors has a 100% affirmance rate from the U.S. Court of Appeals for the Federal Circuit. Our training and outreach efforts were tremendously successful in 2017 and included new in-person and online modules on the Americans with Disabilities Act and anti-discrimination to help make the community aware of workplace rights and responsibilities. More exciting developments in education continue, as we look forward to the changes that lie ahead.

It continues to be our pleasure to serve the legislative branch community in carrying out our broad mandate to advance the rights and responsibilities in the Congressional Accountability Act of 1995. Thank you for your attention to our important mission.

Sincerely,  
Susan Tsui Grundmann  
Executive Director



**“ . . . 2017 was a dynamic year of growth and expansion... It continues to be our pleasure to serve the legislative branch community in carrying out our broad mandate . . . ”**

# Leading the Way

The OOC provides resources to help offices develop and maintain a professional and harassment-free workplace. In particular, the OOC recommends that each office:

- Develop clear anti-discrimination/harassment policies with examples of prohibited conduct and how to report incidents of misconduct;
- Establish standards of conduct, with expectations for professional behavior in and outside of the office, including office policies on dating among office staff (supervisor-subordinate, co-worker-co-worker, etc.);
- Create procedures for reporting complaints that include an accessible point of contact who is trained in handling personnel issues and a back-up contact in cases where there may be a conflict of interest;
- Notify all employees of their right to seek redress at the OOC and display an OOC-produced workplace rights poster in a common area;
- Disseminate policies and OOC materials, such as workplace rights brochures, to all employees when hired and promoted;
- Provide training for managers on the laws applied by the CAA, such as Title VII of the Civil Rights Act, the Family and Medical Leave Act, Americans with Disabilities Act (ADA) and the Uniformed Services Employment and Reemployment Rights Act. Because the law and regulations regarding these statutes can often change, this training should be updated at least every two years;
- Ensure that supervisory employees understand their roles in responding to workplace issues and incidents by encouraging in-person training for supervisors;
- In addition to the training mandated by House Resolution 630 and Senate Resolution 330, require employees to take additional training from the OOC's catalog of resources and customized training to periodically reinforce the goals of preventing inappropriate and illegal conduct;
- Ensure office spaces and communications meet ADA accessibility standards;
- Develop and train employees on the office's emergency action plan, which should include evacuation and shelter-in-place plans and procedures for reporting emergencies;
- Address common office safety hazards.



As a regular presenter at the Congressional Research Service's District/State Staff Institute conferences, the OOC connected with hundreds of congressional staffers who live and work outside of Capitol Hill. Additionally, the OOC hosted a Brown Bag lunch series on topics including accessibility.



## Tips for Improving Office Accessibility:

<http://bit.ly/2Ft9ldi>

## Prevent Common Office Safety Hazards:

<http://bit.ly/2Fugdai>

## Training and Resources:

<http://bit.ly/2p2V80D>



The OOC's ever-expanding catalog of resources includes training opportunities online and in person.



# Sexual Harassment Special Report

The OOC plays a critical role in educating legislative branch employees on identifying and combating workplace harassment and retaliation and providing victims a forum for redress when it occurs. In light of the recent heightened interest in this issue, this special section highlights the OOC's ongoing efforts to combat sexual harassment in the legislative branch.

## REVIEWING THE CAA & SEXUAL HARASSMENT POLICIES OF CONGRESS

In November 2017, the Committee on House Administration commenced a comprehensive review of existing training, policies, and procedures that guard against sexual harassment in the congressional workplace. The OOC provided the Committee with an overview of the CAA and the protections it extends to legislative branch employees, as well as the OOC's important role in combating workplace harassment and retaliation by educating the legislative branch and providing victims a forum in which their concerns can be addressed. On November 14, 2017, Board of Directors Chair Barbara Childs Wallace testified before the Committee on the OOC's procedures and the Board's recommendations to Congress in its Section 102(b) Reports.

During a second hearing on December 7, 2017, the OOC's Executive Director Susan Tsui Grundmann testified about possible

amendments to the CAA that would help make Capitol Hill a model workplace environment. These recommendations included: granting the OOC General Counsel authority to investigate discrimination claims, modifying the dispute resolution process by eliminating the so-called statutory "cooling off period" after mediation, making counseling and mediation optional, and permitting the OOC counselor to assist employees in the technical aspects of drafting a charging document.

## SETTLEMENT DATA

House and Senate oversight committees sought additional information about settlements and awards involving Member-led offices to which the OOC responded to the fullest extent possible under its current statutory framework.

The OOC continues to participate in the vital ongoing dialogue that has resulted from congressional review.



**Written testimony of  
Barbara Childs Wallace:**

[goo.gl/Judj63](https://www.google.com/search?q=goo.gl/Judj63)

**Written testimony of  
Susan Tsui Grundmann:**

[goo.gl/XfG8bG](https://www.google.com/search?q=goo.gl/XfG8bG)

promotion.  
**Sexual Harassment**  
▶ Unwelcome conduct of a  
sexual nature  
gender, which

Uninvited,  
uninitiated, and  
unwanted.

Passive  
acceptance or  
mere  
participation in  
the conduct by  
the offended  
employee does  
not make the  
conduct  
welcome.

## SEXUAL HARASSMENT

More than  
1,000  
employees  
trained  
in person;  
more than  
6,000 trained  
online



**Correcting the Record:**

[goo.gl/C5R71Z](https://www.google.com/search?q=correcting+the+record&rlz=C5R71Z)

### EDUCATION

The Board of Directors has consistently recommended in its biennial Section 102(b) Reports that Congress mandate anti-discrimination, anti-harassment, and anti-retaliation training for all Members of Congress and legislative branch employees, and that employing offices post notices advising legislative branch employees of their rights under the CAA. The Board is greatly encouraged by the new House and Senate requirements that all Members, officers, and employees complete anti-harassment and anti-discrimination training. The OOC recommends extending training requirements to cover the congressional workforce at large.

The CAA is a unique law tailored to the legislative branch that gives the OOC a mandate to develop and deliver a comprehensive program of education and training to Members of Congress and legislative branch employees. The OOC's in-person training, informational videos, and multimedia campaigns examine roles that employees, managers, and bystanders have in preventing offensive conduct and reporting

and correcting behaviors that could contribute to a hostile work environment. In addition to covering legal definitions of workplace discrimination, harassment, and retaliation under the CAA, the OOC's training is designed to help build a strong culture of collegial respect and professionalism.

Face-to-face discussions are often the most effective means to combat discrimination and harassment. The OOC's interactive, person-to-person training sessions are customized to address issues faced by individual employing offices. Frank discussions include relevant examples of inappropriate conduct and provide opportunities for trainers and staff to discuss important workplace issues on Capitol Hill. How should staffers respond to an offensive joke or comment? Why should bystanders respond if they see a colleague mistreated? Where can someone turn if there's a problem? The OOC also discusses with managers the importance of being vigilant about nipping potential problems in the bud and making sure that office policies and procedures reflect a true commitment to eliminating offensive conduct.

The OOC met a vastly increased demand for in-person training in congressional offices at the end of 2017. In a six-week period beginning in November 2017, the OOC recorded:

- a triple-digit percent increase in the number of anti-sexual harassment in-person trainings requested by offices;
- a triple-digit percent spike in the number of staffers enrolling in online training modules;
- twice as many visits to the OOC’s web resources about how to report sexual harassment; and
- a significant increase in the number of people subscribing to OOC social media channels and e-Alerts for updates on rights and responsibilities designed to protect workers against sexual harassment, discrimination, and retaliation.

At the request of the Senate Committee on Rules and Administration, the OOC offered training seminars to meet the requirements of Senate Resolution 330. Many Senate offices and committees invited the OOC to deliver in-person training, which often included state office staff joining via video conference. The OOC offered a 40-minute, interactive module “Preventing Discrimination, Harassment, and Retaliation in the Congressional Workplace” as an online training option for Senate staff.

In addition to training, the OOC created a new dispute resolution brochure for the Senate and a new Notification of Rights poster for the House. The OOC hopes to build on its new connections with employing offices and continue to assist staff in meaningful ways in FY18.

“The speaker was incredible. Our office has a much better grasp of these issues now.”

— Congressional staffer in survey response about OOC’s in-person training on sexual harassment



House Resolution 630 requires all House offices to prominently post a statement of employee rights and protections under the CAA.

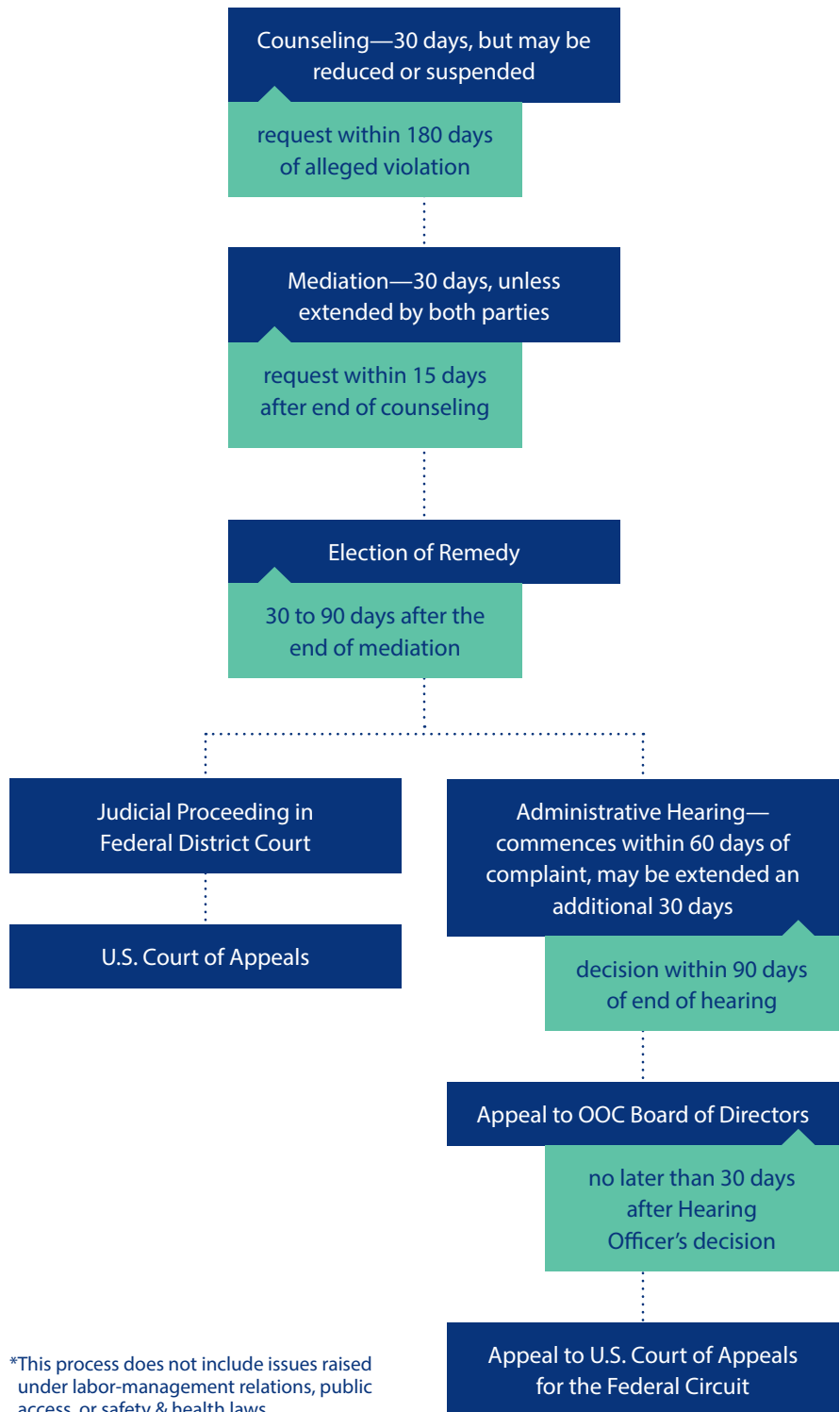
# Administrative Dispute Resolution Process (FY17)

The Congressional Accountability Act of 1995 established an Administrative Dispute Resolution (ADR) process to resolve employment disputes alleging certain violations of the Act. As we go to print, Congress is contemplating reform of the ADR process. At the time of this report, the procedures are as follows: at any time, a covered employee may call the OOC to informally discuss a workplace issue. (Those statistics are reflected in the graph called “General Information Requests from Covered Employees by Section of the CAA.”) Not all informal discussions with counselors will result in a formal proceeding. A formal request for counseling must be filed within 180 days of an alleged violation of the CAA. (Those statistics are reflected in the graph “Formal Requests for Counseling Filed Against All Employing Offices.”) During counseling, an employee meets with an OOC counselor in a confidential setting to review the CAA and learn how its provisions may apply to their concerns.

The administrative dispute resolution process enables a matter to go before a Hearing Officer or judge much more quickly than other agencies’ procedures allow. At any time during the ADR process, an employee may designate a representative, such as an attorney, to represent him or her in the matter.

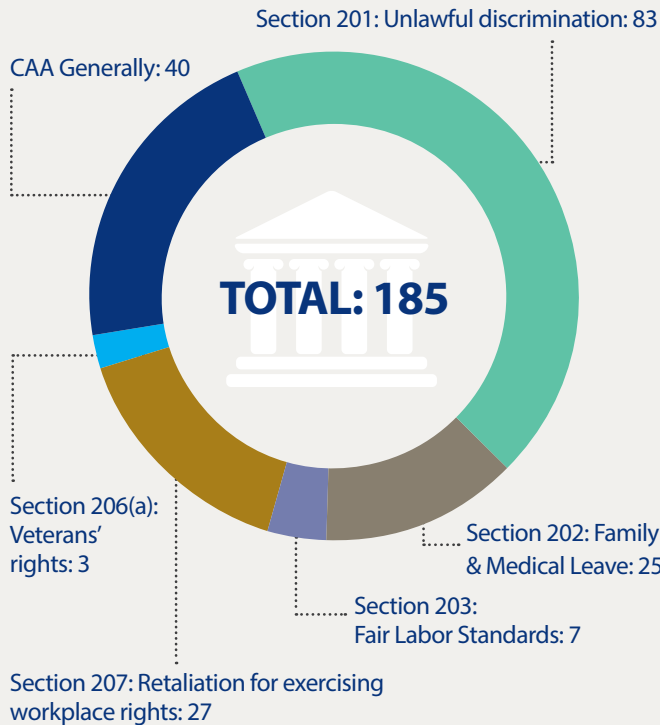
Depending on the law and facts in a case, a Hearing Officer, the Board of Directors, or a federal court may order monetary awards and other appropriate remedies for a prevailing party, such as reinstatement, promotion, back pay, attorney’s fees, and other costs. No civil penalties or punitive damages may be awarded for any claim under the CAA.

## FY17 DISPUTE RESOLUTION PROCESS FOR MOST TYPES OF CLAIMS\*



### ADMINISTRATIVE DISPUTE RESOLUTION STATISTICS (FY17)

#### GENERAL INFORMATION REQUESTS FROM COVERED EMPLOYEES BY SECTION OF THE CAA\*

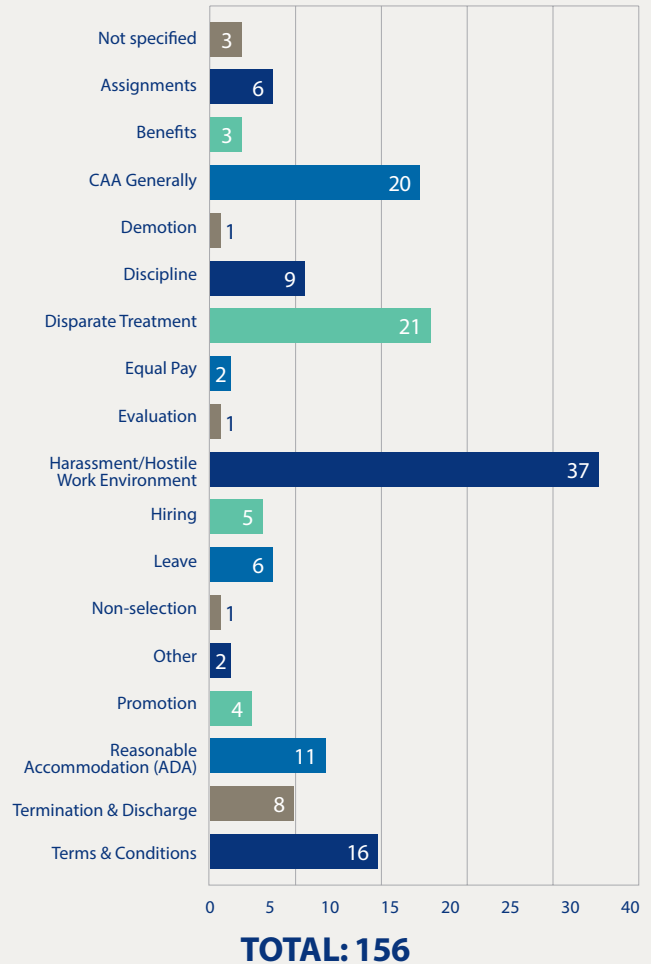


\*No requests were made under Section 204: Polygraph protections. Sections 210, 215, and 220 statistics are included in the OGC section of this report.

ADR statistics do not include requests for information from employing offices, calls from the public and non-eligible employees, requests for and about training, or media inquiries.

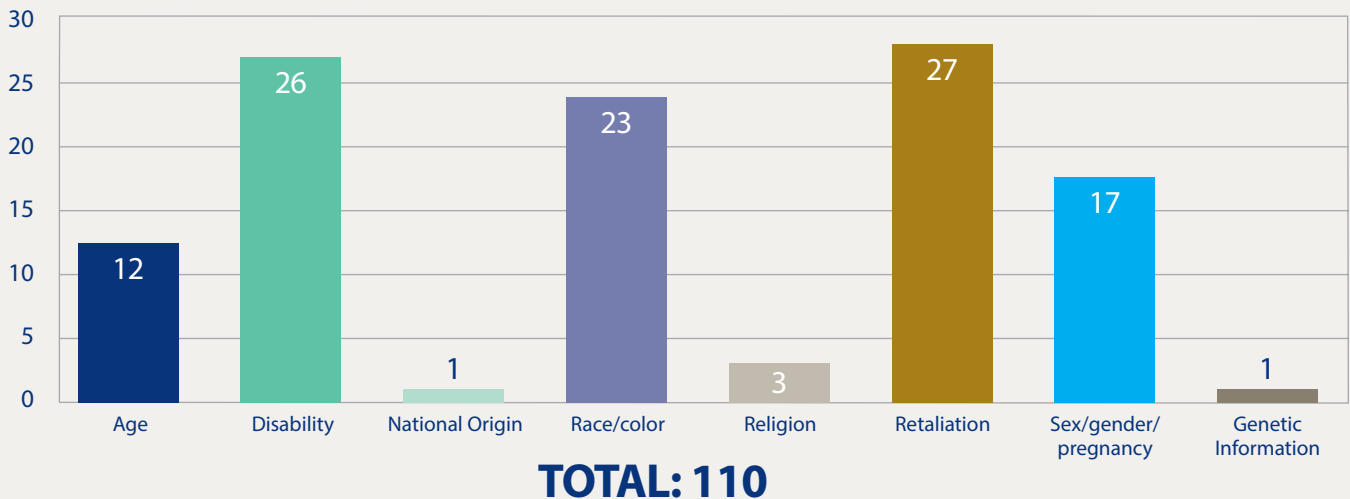
#### GENERAL INFORMATION REQUESTS FROM COVERED EMPLOYEES BY WORKPLACE ISSUES

An individual contacting the OOC may inquire about more than one workplace issue



#### INFORMATION REQUESTS BY COVERED EMPLOYEES REGARDING DISCRIMINATION AND RETALIATION

(An individual contacting the OOC may inquire about more than one basis of discrimination.)



## ADMINISTRATIVE DISPUTE RESOLUTION PROCESS

### REQUESTS FOR CONFIDENTIAL COUNSELING: INITIATING A FORMAL PROCEEDING

#### COUNSELING

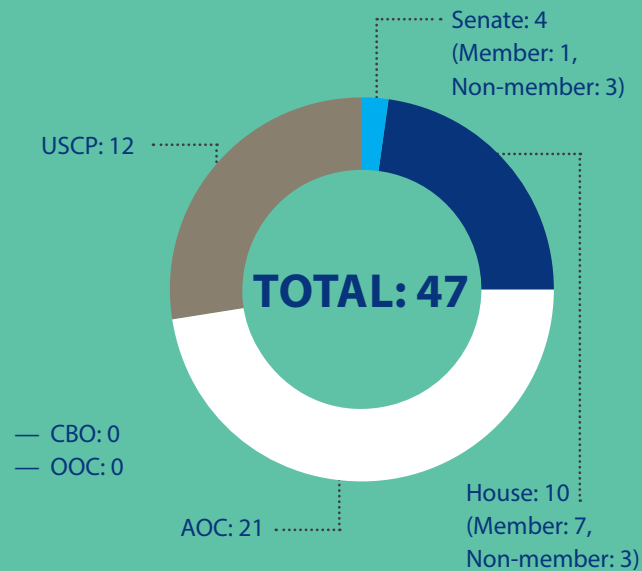
Pending from FY16	3
Newly filed in FY17	47
<b>Total</b>	<b>50</b>

Resolved in counseling	9
Pending in counseling	6
Waiting period to request mediation	5
Requested mediation	30

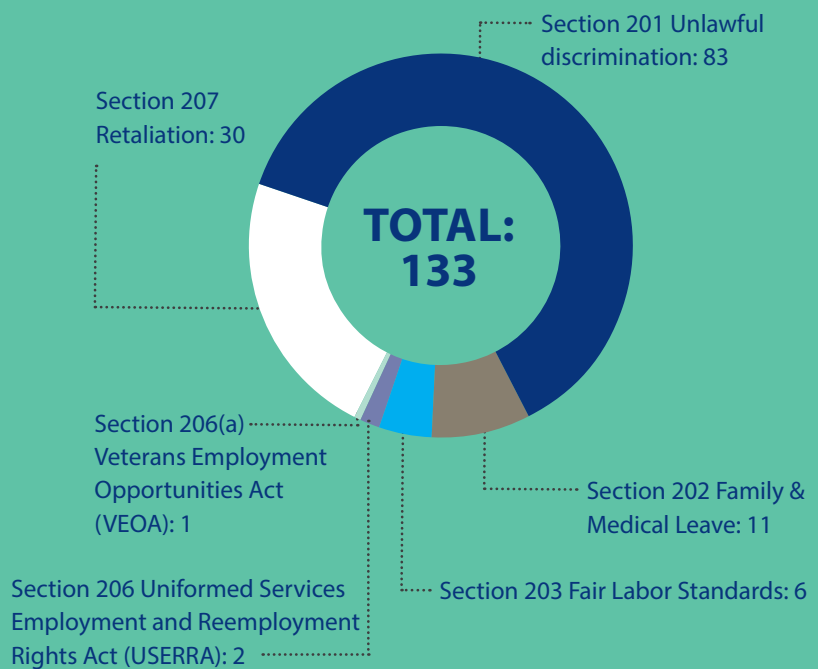
#### WORKPLACE ISSUES RAISED BY EMPLOYEES IN COUNSELING

The most common issue in FY17 was harassment/hostile work environment. Other frequent requests for counseling concerned disparate treatment, termination, leave, and discipline.

#### FORMAL REQUESTS FOR COUNSELING FILED AGAINST ALL EMPLOYING OFFICES



#### FORMAL REQUESTS FOR COUNSELING BY SECTION OF THE CAA\*

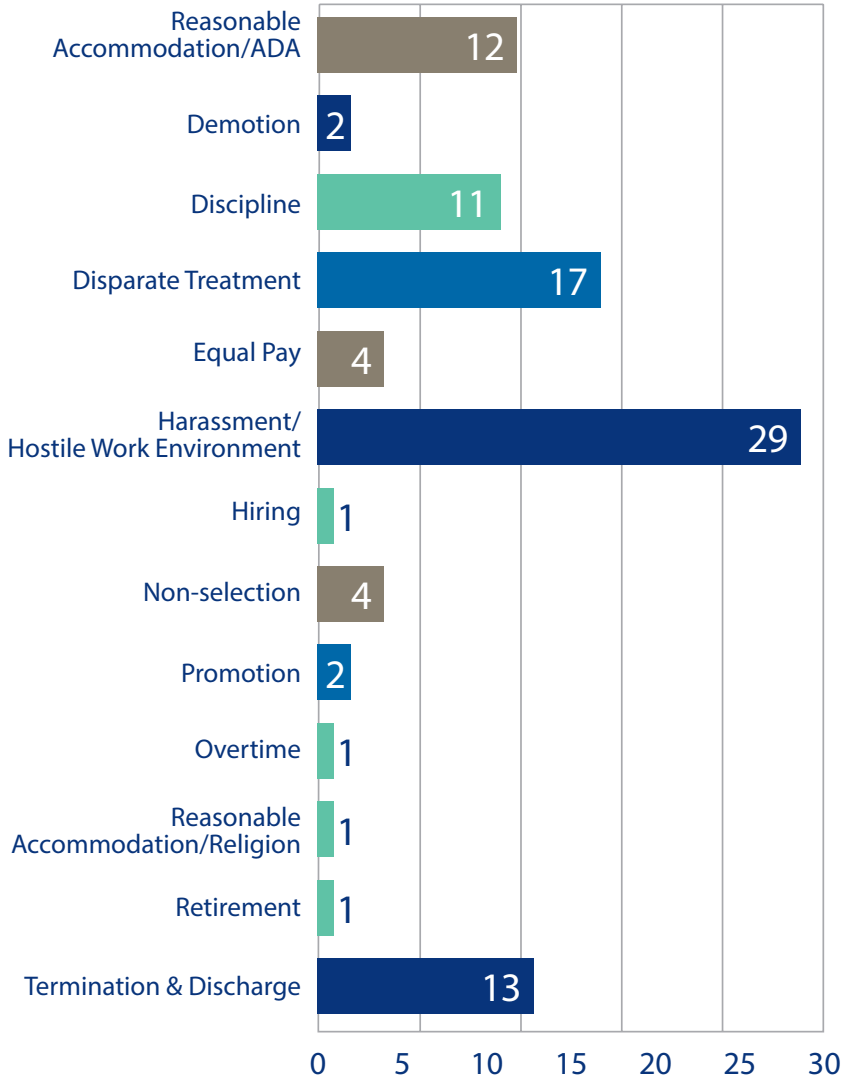


\*Note: a single request for counseling may allege a violation of more than one section of the CAA.



A request for counseling must be filed within 180 days of an alleged violation of the CAA.

**WORKPLACE ISSUES RAISED IN COUNSELING**



**TOTAL: 98**

*\*Note: a single request for counseling may concern more than one workplace issue.*

**WORKPLACE RIGHTS**  
For Congressional Employees

[www.compliance.gov](http://www.compliance.gov)

**OFFICE OF COMPLIANCE**  
advancing workplace rights, safety & health, and accessibility in the legislative branch

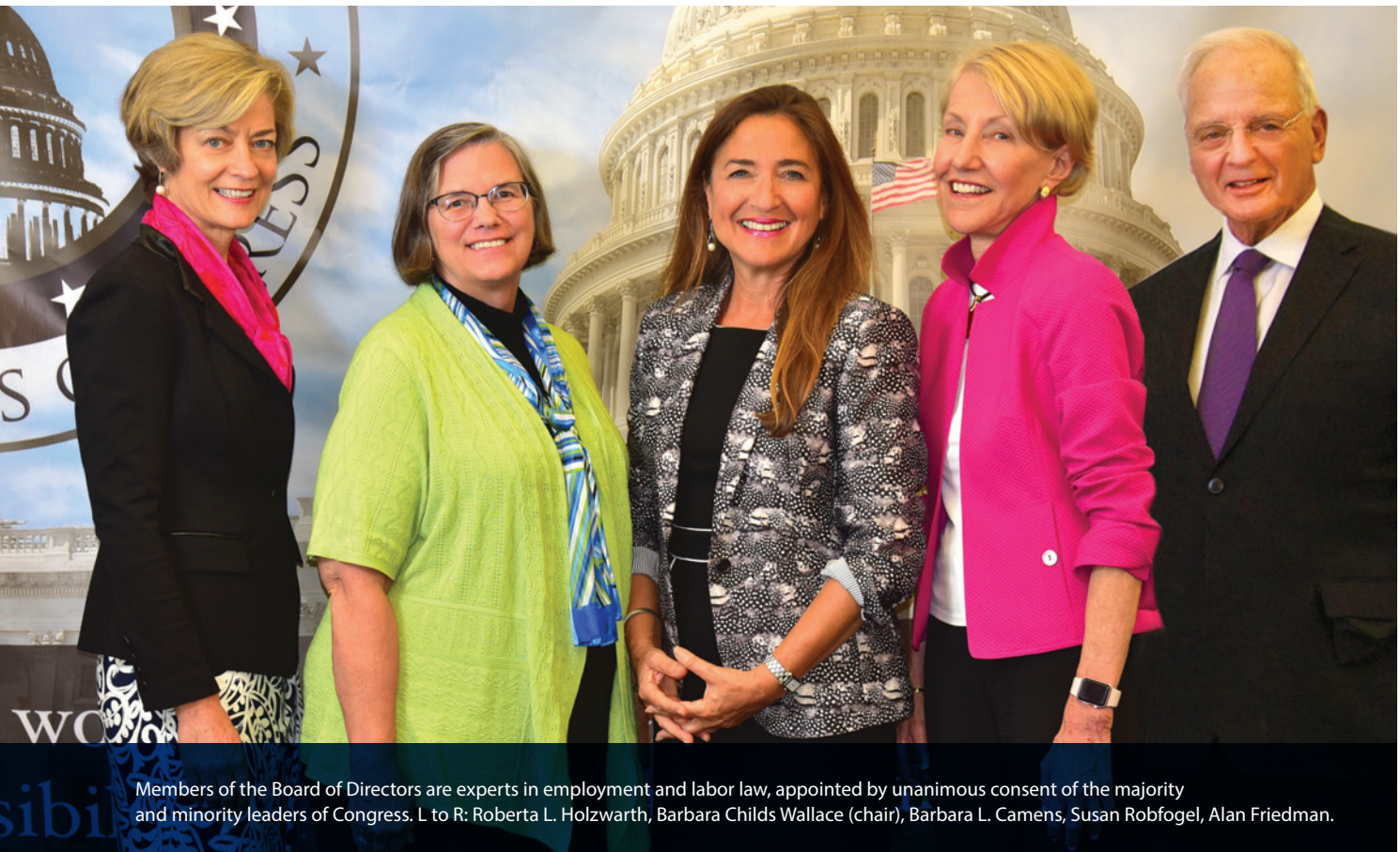
The OOC created a welcome brochure for new legislative branch employees and redesigned the workplace rights brochure.  
<http://bit.ly/2p04YiK>

**REQUESTS FOR MEDIATION:  
EFFORTS TO RESOLVE DISPUTES RATHER THAN LITIGATE**

**MEDIATION PROCEEDINGS**

Pending in mediation from FY16	12
New mediation cases filed in FY17	30
<b>Total</b>	<b>42</b>
Resolved in mediation (settled/withdrawn/ no further action)	10
Cases filed in District Court	5
In waiting period to file complaint	8
Pending in mediation	14
Administrative complaint filed	5

Once a case proceeds to mediation, the employing office is notified of the claim and the parties attempt to resolve the matter with the assistance of a neutral mediator appointed by the OOC. The mediation period is 30 days, unless both parties agree to extend it. Even if mediation initially fails to settle the matter, it is not uncommon for the parties to renew mediation efforts later in the process. Resolving cases during mediation can provide each party an appropriate remedy and save the parties from burdensome litigation, which can be time-consuming and drain productivity.



Members of the Board of Directors are experts in employment and labor law, appointed by unanimous consent of the majority and minority leaders of Congress. L to R: Roberta L. Holzwarth, Barbara Childs Wallace (chair), Barbara L. Camens, Susan Robfogel, Alan Friedman.



## ADJUDICATION OF CLAIMS: CONFIDENTIAL HEARING OR FEDERAL COURT

### ADMINISTRATIVE COMPLAINT PROCEEDINGS

Pending complaints	1						
New complaints filed	5						
<b>Total</b>	<b>6</b>						
<table border="1"> <tr> <td>Resolved during hearing (settled or withdrawn)</td> <td>2</td> </tr> <tr> <td>Hearing Officer decision issued</td> <td>2</td> </tr> <tr> <td>Pending in hearing at end of FY17</td> <td>2</td> </tr> </table>		Resolved during hearing (settled or withdrawn)	2	Hearing Officer decision issued	2	Pending in hearing at end of FY17	2
Resolved during hearing (settled or withdrawn)	2						
Hearing Officer decision issued	2						
Pending in hearing at end of FY17	2						

If the parties fail to resolve their dispute in mediation, the employee may choose to file an administrative complaint with the OOC or file a lawsuit in federal court. In both proceedings, the parties will have the opportunity to present their evidence to a Hearing Officer or judge who will issue a decision based on the merits of the case. The same remedies are available whether the employee files with the OOC or in court. When an employee files an administrative complaint, the case will be heard in a confidential setting and decided by a neutral and experienced Hearing Officer appointed by the OOC. If the employee prevails, or the Hearing Officer's decision is appealed to the Board of Directors, the opinion may become public. If instead the employee chooses to file a lawsuit in court, the case will be decided by a federal judge and the proceeding will be a matter of public record.

### PETITIONS FOR BOARD REVIEW OF HEARING OFFICER DECISIONS

Pending on appeal from FY16	8				
New appeals filed in FY17	2				
<b>Total</b>	<b>10</b>				
<table border="1"> <tr> <td>Cases decided by the Board</td> <td>5</td> </tr> <tr> <td>Pending before the Board</td> <td>5</td> </tr> </table>		Cases decided by the Board	5	Pending before the Board	5
Cases decided by the Board	5				
Pending before the Board	5				

*\*One decision of the Board may resolve several cases/complaints.*

The Board of Directors, the OOC's appellate body, issues decisions resolving matters on petitions for review of Hearing Officer decisions and on exceptions to arbitrators' awards filed pursuant to the labor-management provisions of the CAA. Decisions by the Board of Directors set legal precedent for the interpretation and application of workplace rights in the legislative branch.

In addition to deciding ADR cases, in FY17 the Board issued decisions on 9 cases alleging violations of the labor relations provisions of the CAA. See page 26.

### Court of Appeals

On review in FY17, the United States Court of Appeals for the Federal Circuit upheld a decision of the Board that resolved three consolidated cases.



One of the 30,000 legislative branch workers walking outside the Library of Congress James Madison Memorial Building.



**Video: How to file a claim:**

[goo.gl/KX6FDU](https://goo.gl/KX6FDU)

**Video: Mediation and Appeals:**

[goo.gl/oPBLWH](https://goo.gl/oPBLWH)

## ADMINISTRATIVE DISPUTE RESOLUTION PROCESS



In 2017, approximately 1.9 million people visited Library of Congress facilities including the Thomas Jefferson Building, pictured here.

### MONETARY SETTLEMENTS AND AWARDS

Section 415 of the CAA establishes “an account of the Office in the Treasury of the United States for the payment of awards and settlements . . . under [the CAA],” and further appropriates “such sums as may be necessary to pay such awards and settlements.” Section 415 requires that awards and settlements under the CAA be paid from that account. Under the CAA, this treasury account is separate from the operating expenses account of the OOC. The parties decide the settlement amounts and terms. An award or judgment may also be ordered by a Hearing Officer, the Board of Directors, or a court of competent jurisdiction.

A monetary settlement or award may resolve multiple claims. The settlements and awards in the accompanying chart resolved harassment, discrimination, and retaliation claims, as well as claims arising out of contract and/or pay disputes.

In FY17, the total number of settlements/awards was eight, and the total aggregate amount was \$934,754.

### Settlements and Awards by Fiscal Year

Fiscal Year	Number*	Total \$ Amount
1997	7	\$45,729
1998	16	\$103,180
1999	6	\$72,350
2000	16	\$55,638
2001	7	\$121,400
2002	10	\$3,974,077
2003	11	\$730,071
2004	15	\$388,209
2005	14	\$909,872
2006	18	\$849,529
2007	25	\$4,053,274
2008	10	\$875,317
2009	13	\$831,360
2010	9	\$246,271
2011	16	\$437,465
2012	12	\$426,539
2013	14	\$334,823
2014	11	\$806,450
2015	13	\$483,529
2016	14	\$573,929
2017	8	\$934,754

*\*Monetary settlements and awards could resolve multiple claims across fiscal years.*

# From the Office of the General Counsel



OOC safety specialists inspect electrical outlets as part of biennial inspections.

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; OSHAct or OSH), Section 210 (Public Services and Accommodations under the Americans with Disabilities Act of 1990 or ADA), and Section 220 (Unfair Labor Practices under Chapter 71 of Title 5, United States Code).

This year the Office of the General Counsel (OGC) commenced its biennial OSH and ADA inspections for the 115th Congress. The OGC also opened several new OSH investigations based on reported incidents or requests from covered employees, and it continued to work with employing offices to abate safety and health hazards.

The OGC investigated several new unfair labor practice charges during the fiscal year, ultimately filing one complaint for failure to implement an arbitration award. The OGC also defended several decisions of the Board of Directors before the U.S. Court of Appeals for the Federal Circuit.

The OGC continued its education and outreach efforts in its Brown Bag Lunch Series, which aims to educate legal counsel from the legislative branch on various topics covered by the CAA in order to facilitate the employing offices' compliance with applicable laws. One session covered the OOC's procedures, providing attendees with a comprehensive review of the OOC's statutes and processes, including the ADR program, OSH and ADA inspections, and labor-management issues. Other sessions covered key principles and recent trends in areas of law such as disparate treatment, hostile work environment, fair labor standards, religion in the workplace, and sexual orientation and gender identity.

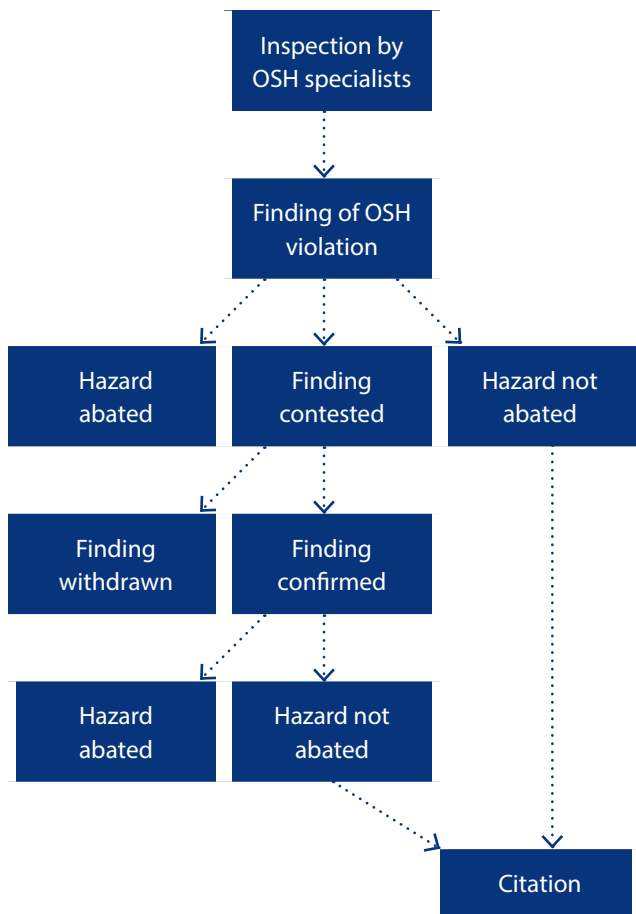


**SAFETY AND HEALTH**

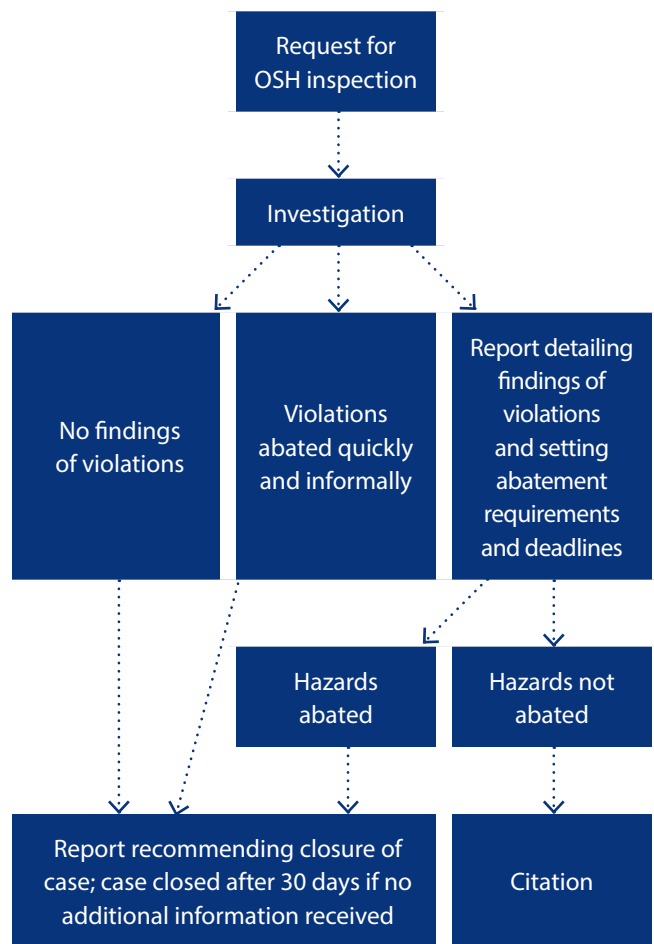
CAA Section 215 (2 U.S.C. § 1341) requires legislative branch employees and employing offices to comply with the OSHAct, which mandates that the workplace be free from recognized hazards that are likely to cause death or serious injury. The OGC conducts required biennial inspections of legislative branch facilities, grounds, and programs for violations of applicable standards and reports its findings to Congress and the Architect of the Capitol. The

OGC also investigates allegations from covered employees regarding potential safety and health violations in legislative branch workplaces. Hazards identified through either the biennial inspection or requestor-initiated investigations must be abated, and the failure to correct the hazards may result in the issuance of citations and ultimately the filing of administrative complaints against the responsible employing office.

**BIENNIAL OSH INSPECTIONS**



**REQUESTOR-INITIATED OSH CASES**



### ENSURING A SAFE AND HEALTHY CONGRESSIONAL WORKPLACE

The CAA requires that, at least once each Congress, the OGC conduct inspections of all facilities, grounds, and programs within its jurisdiction and report its findings to Congress and the Architect of the Capitol. Beginning with the 112<sup>th</sup> Congress, the OGC moved to a risk-based OSH inspection program to focus on inspecting and abating higher-risk hazards that pose the greatest risk of injury, illness, and death to legislative branch employees.

In FY17, the OOC's OSH specialists concluded the inspections for the 114<sup>th</sup> Congress and began to inspect for the 115<sup>th</sup> Congress, covering areas including the U.S. Botanic Garden, several Library of Congress buildings, House Members' offices, the AOC Construction Division, and the U.S. Capitol Police. They also performed a wall-to-wall inspection of the newly-completed Library of Congress Cabin Branch storage facility. The most common violations campus-wide related to electrical hazards, means of egress, and fire protection.

The OGC also opened five new cases and worked with the responsible employing offices to address a variety of employee concerns. One case arose out of a fatal accident involving a fallen co-dominant tree trunk, and has led to significant improvements in the urban tree management program for Capitol Hill. Other new cases involved such issues as asbestos-containing floor tiles, floor loading capacity, fire safety and emergency egress, and indoor air quality concerns. Additionally, the OGC continued to work with employing offices, including the Architect of the

Capitol, the Library of Congress, and the U.S. Capitol Police, to abate hazards identified in cases from previous years. Those cases related to various safety and health issues including fall protection, trip hazards, and vermin, among others.

This year, the OOC also stepped up its education and outreach efforts regarding some of the safety and health topics that frequently affect legislative branch employees. The OGC sponsored a seminar on avoiding and treating heat stress, which was attended by safety professionals, union representatives, and counsel from numerous employing offices. A handout distributed to congressional offices highlighted common office safety hazards including electrical, fire safety, structural, and design issues, and a newly-developed flier addressed the most frequently asked questions about the OOC's biennial OSH inspections. New and updated issues of "Fast Facts" were added to the OOC's website ([www.compliance.gov](http://www.compliance.gov)) to educate covered employees on topics such as keeping workplaces pest-free and working safely in both hot and cold weather conditions.



**Tips for Improving Office Accessibility:**

<http://bit.ly/2Ft9ldi>

**Prevent Common Office Safety Hazards:**

<http://bit.ly/2Fugdai>

**Fast Facts:** <http://bit.ly/2Fx1uez>



Education materials include "Fast Facts" on working safely in extreme weather conditions.



The offices of all 435 House Members were inspected by OOC safety specialists in FY17.



There are approximately 30,000 legislative branch employees.

## FROM THE OFFICE OF THE GENERAL COUNSEL

### SAFETY AND HEALTH—BY THE NUMBERS

Cases open at start of FY17	27
New cases opened in FY17	5
Cases closed in FY17	14
Cases open at end of FY17	18
OSH-related inquiries that did not become cases*	5

\* Either because they were outside of the OOC's jurisdiction or because the responsible entity resolved the issue based on OOC technical assistance

During FY17, the OGC worked collaboratively with the Library of Congress and several jurisdictions within the Architect of the Capitol\*\* to investigate alleged hazards and address any violations that were found:

Architect of the Capitol	3 cases
Library of Congress	3 cases

\*\* Some cases involved both the LOC and the AOC.

This year, the OOC also stepped up its education and outreach efforts regarding some of the safety and health topics that frequently affect legislative branch employees.

## SAFETY AWARDS

At a special ceremony on March 14, 2017, the OOC presented Safety Recognition Awards to Members of Congress whose office spaces were found to be hazard-free during the biennial OSH inspections for the 114th Congress. These awards were presented to 69 Senate offices and 88 House offices.

The OOC also presented Safety Advocate Awards to two individuals for their substantial contributions to improving safety in legislative branch facilities. These awards were presented to Kurt Kuhn, Safety Manager for the Library of Congress, and to the family of the late Francis “Mo” Mowbray, Safety Manager for the Library Buildings and Grounds jurisdiction of the Architect of the Capitol. These two safety professionals were lauded not only for partnering with the OOC during biennial inspections, but also for exhibiting exceptional support of safety processes and hazard-reduction efforts.

These awards were presented in partnership with the National Safety Council, a nonprofit organization committed to eliminating preventable deaths at work, in homes, and in communities.

Inspections are already underway for the 115<sup>th</sup> Congress, with awards to be presented in early 2019.



### About the safety awards:

<http://bit.ly/2p05Gfu>

### Press release on ceremony:

<http://bit.ly/2GazPBg>



The safety awards ceremony opened with the Presentation of Colors by the U.S. Capitol Police Honor Guard.



L to R: Kurt Kuhn and members of the late Francis “Mo” Mowbray’s family accept safety advocate awards for 114th Congress.



The OOC inspected Members' offices to ensure public accessibility.

## FROM THE OFFICE OF THE GENERAL COUNSEL

### ENSURING ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS

CAA Section 210 (2 U.S.C. § 1331) requires legislative branch employees and employing offices to comply with certain provisions of Titles II and III of the ADA. These provisions mandate that public services and accommodations, including the facilities and buildings where public services are provided, be accessible to persons with disabilities. The OGC enforces these provisions through two main avenues: biennial inspections and investigations of *Requests for Inspection* filed with the OOC.

#### Biennial Inspections

The OGC, in partnership with Evan Terry Associates, inspects areas of public access in legislative branch facilities, grounds, and programs at least once each Congress to identify violations of applicable standards. The OGC reports its findings to Congress and the Architect of the Capitol, and notifies any other employing offices responsible for remediation. Since the 111<sup>th</sup> Congress,

the OGC has utilized a barrier-removal survey approach to conduct its inspections, which involves: (1) identifying public access violations, known as barriers to access; (2) assessing the severity of each barrier to quantify the need for removal; and (3) evaluating potential solutions to the barriers based upon cost and need. To maximize resources, each biennial inspection focuses on specific facilities or grounds.

In FY17, OOC inspectors began their inspections for the 115<sup>th</sup> Congress, focusing on the Madison and Adams buildings of the Library of Congress. Inspectors also completed inspections from the 114<sup>th</sup> Congress of the Rayburn and Cannon House Office Buildings and the exterior route adjacent to the O'Neill Federal Office Building. The remaining ADA inspections for the 115<sup>th</sup> Congress will continue through FY18.

#### ADA Requests for Inspection

The OGC investigates allegations of ADA public access violations raised in *Requests for ADA Inspection*. Requests may be filed by persons who experience

or observe barriers to access, including non-employees and members of the public with disabilities.

In FY17, the OOC received one *Request for ADA Inspection* and seven inquiries that did not become cases, either because they were outside of the OOC's jurisdiction or because the OOC provided technical assistance. The request was related to restroom accessibility. The OGC continues to work with the responsible parties to address that concern.

#### Barrier Removal and Enforcement

Barriers to access identified through either the biennial inspection or the requestor-initiated investigation program must be removed, and the failure to do so may result in the filing of administrative complaints against the responsible employing office. Under this process, the OGC files a complaint with the Board of Directors, which is adjudicated by a Hearing Officer. The Hearing Officer's decision may be appealed to the Board for a final decision that may be appealed to the United States Court of Appeals for the Federal Circuit.



**FACILITATING ADA COMPLIANCE**

Education and outreach were key components of the OOC’s strategy to increase ADA compliance in the legislative branch community in FY17. The year began with the launch of an online interactive training module about reasonable accommodation under the ADA. The module covers the definition of a disability, the process to receive a workplace accommodation under the ADA, and medical privacy issues involved with the ADA. Employer and employee knowledge about the rights and responsibilities set forth in the ADA leads to a more inclusive barrier-free workplace. Senator Tammy Duckworth (IL) and Congressman Jim Langevin (RI-2) provided introductions to the training videos.

Two editions of the Compliance@Work publication highlighted ADA issues. The June 2017 edition provided practical tips for accommodating constituents with disabilities, and the July 2017 edition showcased an interview with architect and AOC’s Universal Accessibility Coordinator Ben Scavone, who discussed his role in providing the greatest feasible level of accessibility throughout the Capitol complex. The OOC also developed a technical guide to aid legislative staff in identifying common barriers to access in meeting and office spaces. This document provides practical tips for increasing accessibility for constituents and other members of the public with disabilities who visit Member offices.



**Compliance@Work:  
ADA Progress on the Hill:**  
<http://bit.ly/2FHxqAB>

**Compliance@Work: Accommodating  
Constituents with Disabilities:**  
<http://bit.ly/2FB8XO7>

**Video training: Preventing Disability  
Discrimination in the Congressional  
Workplace (House version):**  
<http://bit.ly/2FpZYIJ>

**Video training: Preventing Disability  
Discrimination in the Congressional  
Workplace (Senate version):**  
<http://bit.ly/2FnMjIX>

The OOC inspects Library of Congress buildings, including the Thomas Jefferson Building pictured here, for ADA compliance.





The OOC has jurisdiction over approximately twenty bargaining units composed of employees including masons, carpenters, electricians, plumbers, visitor guides, and police officers.

The CAA protects a covered employee's right to form, join, or assist a labor organization without fear of penalty or reprisal.

#### LABOR-MANAGEMENT RELATIONS

CAA Section 220 (2 U.S.C. § 1351) makes the Federal Service Labor-Management Relations Statute (FSLMRS) applicable to covered employees and employing offices within the legislative branch and prohibits unfair labor practices by both employing offices and labor organizations. The CAA protects a covered employee's right 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 OGC is responsible for protecting the labor-management relations rights of covered employees and employing offices through the investigation of unfair

labor practice (ULP) charges and prosecution of ULP complaints. The Board of Directors has the authority to issue final decisions on union representation and election issues, negotiability petitions, and exceptions to arbitrators' awards. The Board also serves as the appellate body that reviews Hearing Officers' decisions regarding ULP complaints. The OOC has jurisdiction over approximately twenty union-represented bargaining units composed of a wide variety of employees, including police officers, masons, carpenters, electricians, plumbers, freight and material handlers, visitor guides and visitor assistants, power plant laborers, photographers and videographers, and clerical and administrative workers.

## REPRESENTATION ELECTIONS AND LABOR-MANAGEMENT DISPUTE RESOLUTION

In FY17, the OOC processed a variety of labor-management matters filed under Section 220 of the CAA and its substantive labor-management regulations.

### Representation Petitions

One representation petition was filed regarding a change in union affiliation for a previously certified bargaining unit. Once the investigation is completed, the Board of Directors will act on the petition.

### Review of Arbitration Awards

The Board rendered a final decision in one case seeking review of an arbitration award.

### Resolution of Negotiability Disputes

The Board rendered final decisions in five petitions filed pursuant to the Board's process for expedited review of negotiability issues. All five decisions are pending review by the U.S. Court of Appeals for the Federal Circuit.

### Investigation and Prosecution of ULPs

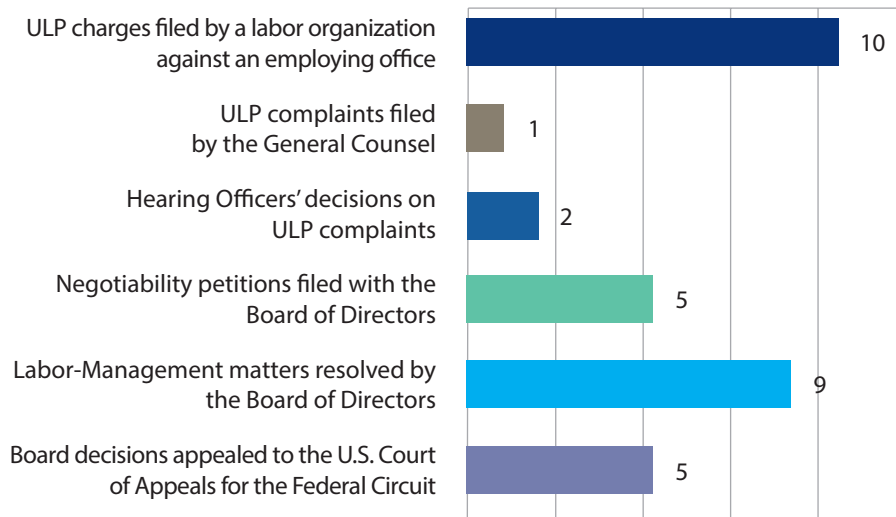
The OGC investigated ten ULP charges filed in FY17. Five alleged an employing office's refusal to

bargain in good faith, three alleged an employing office's refusal to cooperate or comply with an arbitration award or grievance process, and two alleged retaliation for protected union activity. Three decisions were issued by Hearing Officers. The Board upheld the Hearing Officers' decisions in two ULP cases finding failures to comply with arbitration awards. The General Counsel filed one complaint regarding failures to comply with an arbitration award, which was dismissed by the Hearing Officer. The Board reversed and remanded the case to the Hearing Officer for further proceedings.

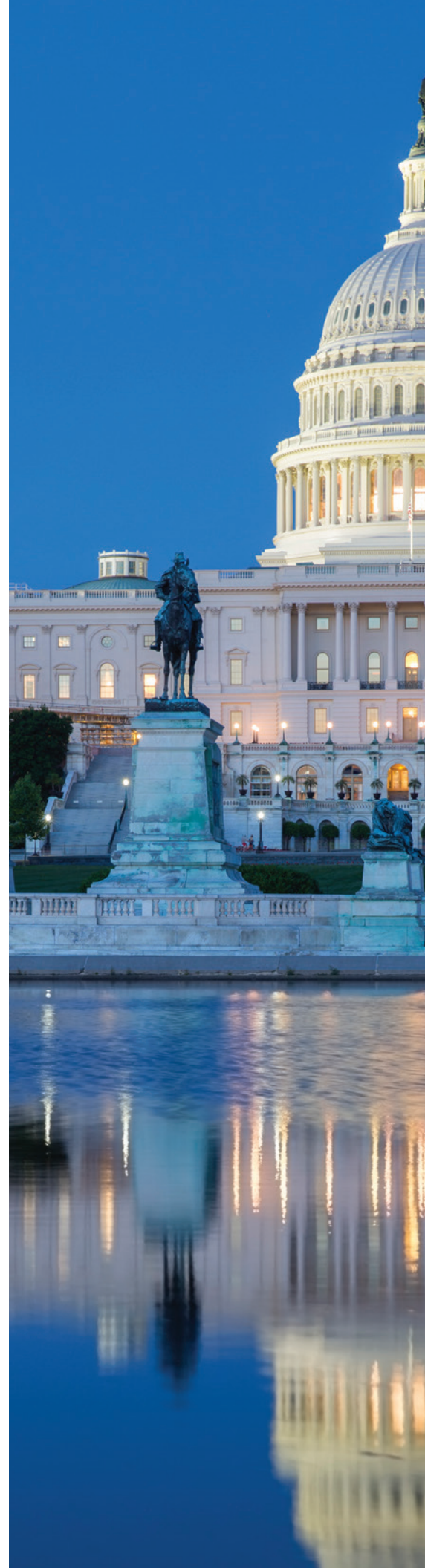
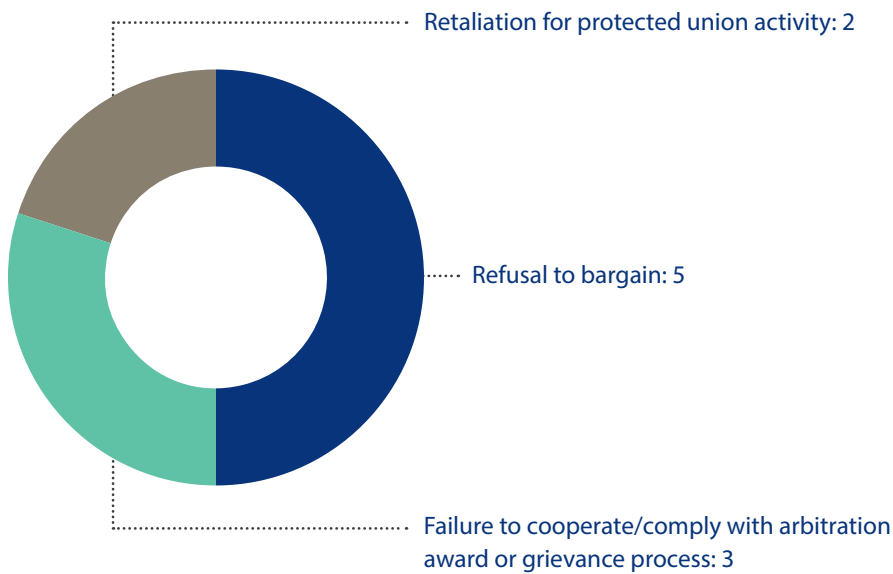
AOC workers maintain over 18 million square feet of legislative branch facilities including many outdoor spaces, such as the Rayburn House Office Building fountain, pictured here.



LABOR-MANAGEMENT DISPUTES IN FY17—BY THE NUMBERS



TYPES OF ULP CHARGES FILED





# Looking Ahead



The beginning of FY18 has been exciting for the OOC, as many needed changes to the CAA have been discussed.

A strategic plan for 2019–2021 is being developed, along with the Section 102(b) Biennial Report, Recommendations for the 116<sup>th</sup> Congress.

In addition to sexual harassment prevention, the OOC continues to educate the covered community on disability discrimination prevention, accessibility requirements for

congressional offices, managers' responsibilities to promote a productive and respectful workplace, and other areas of the CAA.

Utilizing educational materials produced by the OOC and providing regular training on workplace rights will underscore an office's commitment to eliminating illegal and inappropriate behavior and ensuring that congressional workplaces are safe and accessible. With everyone's vigilance, Congress can be a model workplace for the nation.



**In-person course offerings for 2018:**

[goo.gl/GLQrJG](https://goo.gl/GLQrJG)



# Acronyms



Phase I of the Cannon Renewal Project began in January 2017. Credit: Architect of the Capitol.

**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

**EPPA:** Employee Polygraph  
Protection Act

**FLSA:** Fair Labor Standards Act

**FMLA:** Family and Medical  
Leave Act

**FLRA:** Federal Labor  
Relations Authority

**FSLMRS:** Federal Service  
Labor-Management  
Relations Statute

**GINA:** Genetic Information  
Nondiscrimination Act

**GAO:** Government  
Accountability Office

**LOC:** Library of Congress

**OGC:** Office of General Counsel

**OSH:** Occupational Safety  
and Health

**OSHAct:** Occupational Safety  
and Health Act

**OOC:** Office of Compliance

**ULP:** Unfair Labor Practice

**USCP:** United States Capitol Police

**USERRA:** Uniformed Services  
Employment and Reemployment  
Rights Act

**VEOA:** Veterans Employment  
Opportunities Act

**WARN:** Worker Adjustment and  
Retraining Notification Act





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