

Statement of
Barbara Childs Wallace, Chair, Board of Directors
Office of Congressional Workplace Rights
Before the Committee on House Administration
United States House of Representatives
“Oversight of the Office of Congressional Workplace Rights:
Lessons Learned from the Congressional Accountability Act of 1995 Reform Act.”
November 9, 2021

Chairwoman Lofgren, Ranking Member Davis, and Members of the Committee, on behalf of the Board of Directors and staff of the Office of Congressional Workplace Rights (OCWR), I thank you for the opportunity to submit for the record this statement regarding the work of our office, its mission to advance workplace rights, safety, health, and accessibility in the legislative branch, and the lessons we have learned since the implementation in 2019 of the changes embodied in the Congressional Accountability Act of 1995 Reform Act.

Despite the challenges of 2020-21 and the COVID-19 pandemic, the OCWR has been able to accomplish this essential and ongoing mission. This would not have been possible without the continued support that our office has received from its many stakeholders in the congressional community, including the Members and staff of this Committee, as well as employing offices, labor organizations, and employees who work on the Hill and throughout the country.

The OCWR's Statutory Mandate

The Congressional Accountability Act (CAA) was passed with overwhelming bipartisan support over 25 years ago. This landmark legislation embodies a promise by Congress to the American public that it will abide by the same federal workplace and accessibility laws that it applies to private sector employers and executive branch agencies. As such, the CAA currently applies 13 workplace, employment, safety, and accessibility laws to Congress and other employing offices and instrumentalities of the legislative branch. These laws include:

- Title VII of the Civil Rights Act of 1964;
- The Age Discrimination in Employment Act;
- The Rehabilitation Act;

- The Americans with Disabilities Act and the Americans with Disabilities Act Amendments Act;
- The Family and Medical Leave Act;
- The Fair Labor Standards Act;
- The Employee Polygraph Protection Act;
- The Worker Adjustment and Retraining Notification Act;
- The Uniformed Services Employment and Reemployment Rights Act;
- The Veterans Employment Opportunities Act;
- The Occupational Safety and Health Act;
- The Federal Service Labor Management Relations Act; and
- The Genetic Information Nondiscrimination Act.

(On December, 20, 2021, a fourteenth law—the Fair Chance to Compete for Jobs Act—will be added to this list.)

When the CAA was enacted, it established the Office of Compliance, now the OCWR, to ensure that the promises embodied in the CAA are kept. For the first time ever, congressional employees had an impartial office dedicated to combatting discrimination and harassment, as well as ensuring health and safety protocols and providing other important workplace protections.

With approximately 30 full-time employees, the OCWR performs the same functions as multiple agencies in the executive branch, including the Equal Employment Opportunity Commission, the Occupational Safety and Health Administration, the Department of Labor, and the Federal Labor Relations Authority. Our office is responsible for enforcing federal workplace and accessibility laws that cover more than 30,000 employees in the legislative branch, including the House of Representatives, the Senate, the United States Capitol Police, the Library of Congress, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Congressional Accessibility Services, and our own office, among others. We manage the administrative dispute resolution (ADR) process established by the CAA to resolve workplace disputes; and we carry out a program of training and education on the laws made applicable to the legislative branch by virtue of the CAA.

Furthermore, our General Counsel is responsible for inspecting—at least once each Congress—over 18 million square feet of facilities and grounds in the legislative branch for compliance with the Occupational Safety and Health (OSH) Act, as well as the public areas of all facilities in the legislative branch for compliance with titles II and III of the

Americans with Disabilities Act (ADA). The General Counsel is also responsible for investigating allegations of OSH, ADA, and unfair labor practice (ULP) violations filed under the Act, and for filing and prosecuting complaints of OSH, ADA and ULP violations.

The OCWR operates under the governance of a five-member, non-partisan Board of Directors appointed by the majority and minority leaders of both Houses of Congress. I have had the privilege of serving as Chair of the Board since 2017. By statute, the Board functions as the appellate body in the ADR process; it promulgates regulations and procedural rules for implementing the CAA's provisions; and it makes recommendations to each Congress for changes to the CAA to advance the rights of congressional employees. Board members come from across the United States, and they are chosen for their expertise in the laws administered under the CAA. Each Board member brings a different perspective to the OCWR: some members have extensive experience representing public and private employers on labor and employment matters, whereas others represent individual employees and labor organizations. Regardless of their backgrounds, however, when Board members are working together to administer the CAA, they emphasize consensus-building, impartiality, the free exchange of ideas, collegiality, and fairness.

The CAA Reform Act.

On December 21, 2018, the Congressional Accountability Act of 1995 Reform Act, S. 3749, was signed into law. The Reform Act made many important changes that dramatically expanded the OCWR's duties and responsibilities, as well as the number of employees covered by the CAA. These duties and responsibilities under the Reform Act include:

- substantially modifying the ADR process under the CAA, including creating additional procedures for preliminary hearing officer review of claims;
- developing and implementing procedures for Members of Congress to reimburse the Treasury for awards and settlement payments resulting from specified harassment or retaliation claims;
- developing and implementing procedures for employing offices to reimburse the Treasury for payments resulting from specified claims of discrimination;

- appointing confidential advisors to provide information to legislative branch employees about their rights under the CAA;
- renaming our office as the Office of Congressional Workplace Rights to more clearly inform the legislative branch community of our mission;
- extending certain CAA protections to unpaid staff, including interns, detailees, and fellows, as well as employees of the Stennis Center for Public Service, the China Review Commission, the Congressional-Executive China Commission, and the Helsinki Commission;
- significantly expanding OCWR reporting obligations;
- creating a program to permanently retain records of investigations, mediations, hearings, and other proceedings;
- establishing a secure electronic system to receive and keep track of claims; and
- developing and implementing means by which legislative branch employees who work outside of the Washington, D.C., area—such as in Members’ district offices—have equal access to OCWR services and resources.

Today, not only has the OCWR obtained more than two years of experience under these reforms, but we did so while operating remotely as a result of the COVID 19 pandemic. Despite that fact, we still have been able to complete our ongoing mission. The OCWR’s Confidential Advisor continues to inform individuals in the legislative branch about their rights and responsibilities under the CAA. The Office regularly receives telephone calls and email inquiries from employees, employers, unions, and representatives regarding questions about workplace rights, safety, and accessibility. Covered employees in the legislative branch are able to file claims remotely via a secure e-filing system that permits OCWR staff to monitor and process these claims, and all matters continue to be processed in accordance with statutory deadlines. We have conducted hearings and mediations remotely using secure web conferencing and videoconferencing applications, and the Office of the Clerk of the OCWR works closely with all parties prior to the hearing to ensure that proceedings run smoothly. The OCWR offers videoconferencing services and other accommodations for individuals with disabilities.

The OCWR also made significant progress on other Reform Act initiatives mentioned previously, including revising virtually all publications and education and training materials that the OCWR produces. The OCWR Education and Training program has added two full-time trainers during the pandemic to meet the increased demand for training. These trainers have been delivering remote training sessions tailored to meet the needs of employees and employing offices throughout the legislative branch. The OCWR's OSH program also continues with inspection meetings conducted remotely. When a physical inspection is required, OCWR inspectors have been on-site while maintaining social distancing and adhering to OAP and CDC guidelines. The OCWR's Office of General Counsel has also delivered virtual brown bag presentations to the legislative branch community, covering topics such as paid parental leave in the legislative branch and pandemic-related issues under the CAA.

Moreover, I am pleased to report that since October 4, 2021, the OCWR doors have reopened during normal business hours, so we are now staffed to accommodate both in-person and virtual business. All OCWR employees and onsite contractors must maintain social distancing and follow the procedures set forth by the CDC and the Office of Attending Physician to reduce the transmission of COVID.

Although we certainly look forward to a return to working with our colleagues in the legislative branch in a post-COVID environment, I am firmly convinced that the OCWR, by overcoming the unprecedented challenges of the past two years, is now better situated than ever to face new challenges and carry on our critical mission on Capitol Hill.

As the Chair of the OCWR's Board of Directors, I am proud of the work that our highly professional and talented staff members perform every day. We are available to answer any questions or to address any concerns that the Committee may have.