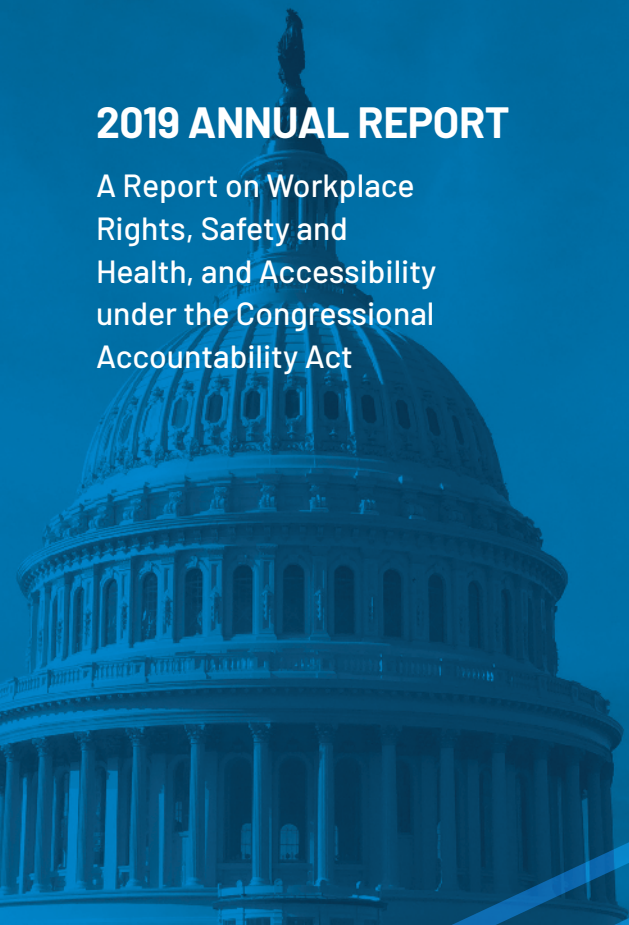


2019 ANNUAL REPORT

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



STATE OF THE **CONGRESSIONAL** WORKPLACE



The Congressional Accountability Act of 1995 (CAA) applies workplace protections to the more than 30,000 employees of the legislative branch, including unpaid staff. Enacted on December 21, 2018, the Congressional Accountability Act of 1995 Reform Act renamed the Office of Compliance (OOC) as the Office of Congressional Workplace Rights (OCWR). The OCWR administers and ensures the integrity of the CAA through its programs of education, dispute resolution, safety and health, public accessibility, and labor-management relations. To align with the annual reporting requirements under the CAA Reform Act, this Annual Report covers the OCWR's activities during the period from October 1, 2018 to December 31, 2019.

Congressional Workplaces Covered by the CAA



Office of the Architect of the Capitol



U.S.-China Economic and Security Review Commission



Congressional Budget Office



Congressional-Executive Commission on China



Government Accountability Office*



Commission on Security and Cooperation in Europe (Helsinki Commission)



Library of Congress



Office of Congressional Workplace Rights



Office of Attending Physician



Office of Technology Assessment



Stennis Center for Public Service



United States Capitol Police



U.S. House of Representatives



U.S. Senate

Office of Congressional Accessibility Services

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

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Your Rights in the Congressional Workplace

Legislative branch employees are protected by the CAA. Please visit ocwr.gov for further information about the rights listed below or contact the OCWR at (202) 724-9250. Contacts are confidential.

Protection From Unlawful Discrimination

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

[2 U.S.C. § 1311 \(Section 201\)](#)

Family and Medical Leave

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

[2 U.S.C. § 1312 \(Section 202\)](#)

Fair Labor Standards

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

[2 U.S.C. § 1313 \(Section 203\)](#)

Polygraph Testing Prohibition

Generally prohibits requiring or requesting that an employee take a lie detector test; 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.

[2 U.S.C. § 1314 \(Section 204\)](#)

Notification of Office Closings and Mass Layoffs

Under certain circumstances, requires that employees be notified of an office closing or of a mass layoff at least 60 days in advance of the event.

[2 U.S.C. § 1315 \(Section 205\)](#)

Uniformed Services Rights and 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.

[2 U.S.C. § 1316 \(Section 206\)](#)

Protection for Exercising Workplace Rights

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

[2 U.S.C. § 1317 \(Section 207\)](#)

Accessibility

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

[2 U.S.C. § 1331 \(Section 210\)](#)

Hazard-free Workspaces

Requires employing offices to comply with occupational safety and health standards and to provide workplaces free of recognized hazards.

[2 U.S.C. § 1341 \(Section 215\)](#)

Collective Bargaining and Unionization

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

[2 U.S.C. § 1351 \(Section 220\)](#)

Genetic Information Nondiscrimination and Privacy

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

[2 U.S.C. § 1302\(c\) \(Section 102\(c\)\)](#)

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.

[2 U.S.C. § 1316a \(VEOA SEC. 4\(c\)\)](#)

Statement From the Chair of the Board

On behalf of the Board of Directors of the Office of Congressional Workplace Rights (OCWR), I am pleased to present the 2019 Annual Report on the State of the Congressional Workplace. This report highlights the office's many achievements in the areas of education, dispute resolution, safety and health, public accessibility, and labor-management relations. To align with the annual reporting requirements under the Congressional Accountability Act of 1995 (CAA) Reform Act, this 2019 Annual Report covers a 15-month period and includes OCWR activities and statistics from October 1, 2018 through December 31, 2019.

The enactment of the CAA Reform Act on December 21, 2018 meant that 2019 would be the most challenging year for the office since it opened its doors in 1996. Groundbreaking reforms under the new law mandated that Members of Congress be held personally liable for their acts of harassment and retaliation, extended workplace protections to unpaid staff, and required that employing offices develop programs to educate their employees on their rights and protections under the CAA.

I am pleased to report that in 2019, without skipping a beat, the OCWR successfully maintained its operations enforcing 13 workplace laws while effectively implementing the significant reforms of the CAA. Many thanks to the OCWR

staff for its dedication and hard work in seamlessly applying these new processes throughout this busy transition year. This report explains the new administrative and judicial dispute resolution system and provides statistics on matters processed simultaneously under the old and new procedures.

In addition to processing claims of alleged violations of the CAA, the OCWR educated the covered community on the CAA, conducted safety and health inspections, ensured labor-management protections, and safeguarded access to legislative branch facilities for people with disabilities. Of further significance, in December 2019, the OCWR launched the first-ever legislative branch-wide climate survey of the workplace environment. Notably, this confidential, voluntary, and secure survey specifically solicits information about respondents' attitudes regarding sexual harassment.

We look forward to continuing our important work with the congressional community to advance workplace protections for the more than 30,000 legislative branch employees and unpaid staff and ensuring safe access to millions of visitors to Capitol Hill and state and district offices.

Sincerely,
Barbara Childs Wallace
Chair, Board of Directors



This report explains the new administrative and judicial dispute resolution system and provides statistics on matters processed simultaneously under the old and new procedures.

Statement From the Executive Director



It is my privilege to present the 2019 Annual Report for the Office of Congressional Workplace Rights (OCWR). In my third year as the Executive Director, I am honored to serve with a talented and motivated staff. This year has been unlike any other as the OCWR implemented the Congressional Accountability Act of 1995 (CAA) Reform Act. In record time, the OCWR instituted sweeping changes including the overhaul of the administrative dispute resolution (ADR) process. I could not be prouder of our staff for its many outstanding accomplishments. This Annual Report also provides valuable information on the progress we have made under our Strategic Plan.

The CAA Reform Act brought significant changes to the legislative branch workplace and community. It extended the protections of the 13 workplace and accessibility laws to new employing offices and new categories of employees—including, in some cases, unpaid staff. The Act necessitated extensive statutory changes to the OCWR's ADR process, the vast majority of which required implementation within six months. It required the drafting of new Procedural Rules, which

were then sent out for public notice and comment and finalized. New statutory roles such as a confidential advisor were created, enhanced reporting requirements were met, and an innovative e-filing system was designed. We instituted the new ADR process on June 19, 2019, while still managing cases that were filed under the original process.

Before year's end, the OCWR conducted the first-ever legislative branch-wide workplace climate survey. This statutory requirement involved working closely with House and Senate oversight committees to create a comprehensive survey with emphasis on the respondents' attitudes toward sexual harassment. Implementing the survey was a success, and the data produced will provide important information to ensure a safer, more productive workplace culture within the legislative branch.

An understanding developed—especially following the #MeToo movement—that education merely addressing the letter of the law is insufficient to change the climate in the legislative community. For true change to occur, we also must educate our workforce on the underlying practices,



biases, and behaviors that could lead to discrimination, cause retaliation, and create a hostile work environment. OCWR training and outreach efforts reached new heights in 2019 with high demand for novel tools, such as our unconscious bias and bystander intervention interactive in-person courses and other online courses, which we conducted for thousands of employees in the legislative branch. In addition to our annual conference with OCWR mediators and hearing officers, we convened the Reform in Action Summit to discuss the innovative process and introduce the confidential advisor, mediators, and hearing officers to employing offices and employee representatives.

Although wide-ranging changes were implemented in 2019, our daily work continued uninterrupted. The OCWR staff worked diligently, and I am pleased to report that the OCWR has no case backlog and enjoys a 100% affirmance rate for employment cases by our reviewing court, the U.S. Court of Appeals for the Federal Circuit. The OCWR's Office of the General Counsel carried on its important work of ensuring that all legislative branch employees work in an environment that is

free from safety hazards and unfair labor practices, and that individuals with disabilities do not encounter barriers when accessing legislative branch facilities and services.

During this challenging time, the OCWR was also undergoing two audits by the U.S. Government Accountability Office (GAO). On December 30, 2019, the GAO issued its report on the OCWR's management practices. As a result of this study, in 2020 we will reassess our strategic planning, including goals for performance and measures of our advancement toward these goals, and will continue to report on our progress in our next Annual Report.

Despite all of these changes, our vision at the OCWR remains constant: a legislative branch free of discrimination and harassment, safety and health hazards, accessibility barriers, and employment and labor violations. It is with continued pride that we serve the legislative community in our capacities as a partner and a resource toward these goals.

Sincerely,
Susan Tsui Grundmann
Executive Director

Despite all of these changes, our vision at the OCWR remains constant: a legislative branch free of discrimination and harassment, safety and health hazards, accessibility barriers, and employment and labor violations.



The OCWR Strategic Plan:
<https://bit.ly/34bgZZ2>



Implementing Reforms

Goal I—Advance the principles of the Congressional Accountability Act, as amended by the CAA Reform Act

The Congressional Accountability Act (CAA) applies provisions of 13 workplace laws to the legislative branch of the federal government and authorizes the Office of Congressional Workplace Rights (OCWR) to administer these provisions. Following the passage of the CAA Reform Act on December 21, 2018, the OCWR amended its Strategic Plan to include initiatives for implementing the CAA Reform Act. In this 2019 Annual Report, the OCWR chronicles its accomplishments in implementing the reforms and reports on its progress toward its strategic goals, as set forth in its 2019–2023 Strategic Plan, linked at the end of this Report and available at our website, ocwr.gov.

Administer the Congressional Accountability Act of 1995 Reform Act

The CAA Reform Act significantly impacted the operations of the OCWR in 2019. Although not directly affecting its substantive protections, the Reform Act required that the OCWR implement important new programs and services by June 19, 2019. While working to timely implement the reforms, the OCWR maintained regular operations including processing cases, inspecting workspaces, and educating the legislative branch community. From June 19, 2019 through December 30, 2019, the OCWR seamlessly administered two distinct processes for resolving allegations of violation of the CAA: one that had long governed administrative dispute resolution (ADR) of cases under the CAA, and the other a newly mandated process under the CAA Reform Act to govern claims filed on and after June 19, 2019.

As a small independent office of the legislative branch, the OCWR had just six months to fully implement major reforms. Noteworthy reforms included instituting new procedures to resolve alleged violations of the CAA, implementing an electronic claims filing system, and launching the first-ever survey of the legislative branch workplace climate.

Of paramount concern for the OCWR was ensuring the thorough, accurate, and timely implementation of the Reform Act. The OCWR began this process by conducting a comprehensive analysis of the CAA Reform Act provisions. From that analysis, the OCWR identified 21 significant initiatives and created teams to work on each initiative. The teams worked in partnership, sharing skills and expertise to achieve their shared goals.

Developing new programs while maintaining regular operations presented significant challenges for the OCWR, but staff was not dissuaded. By joining forces, the OCWR succeeded in timely implementing major reforms while continuing to provide its many services and programs to the legislative branch community.

The details involved in redesigning the Office's programs were significant. During this critical period, the Office revised its logo to reflect the new name—the Office of Congressional Workplace Rights. The website was updated to reflect the amendments of the Reform Act. Amended Procedural Rules to guide parties through the new ADR process were developed and timely issued. Comprehensive educational materials, including newsletters and brochures available in print and on our website, which inform stakeholders across the country about the impact of the Reform Act

Ongoing support from the legislative branch community was critical to the Office's successful implementation of the CAA Reform Act.

on workplace rights, responsibilities, and procedures, were created. The OCWR designed and distributed new workplace rights notices to all legislative branch employing offices, which were required to be posted in the workplace. The OCWR timely issued newly mandated reports on OCWR operations and created and filled two new statutorily required positions of confidential advisor and preliminary hearing officer, both of which play distinct important roles under the new ADR procedures.

Of no less significance was the OCWR's timely development and implementation of a secure and confidential filing system enabling legislative branch staff to electronically file claims alleging violation of the CAA. This new online system resulted from the careful implementation of an information technology (IT) assessment and the development and monitoring of IT quality controls.

Adding to this list of noteworthy accomplishments in 2019, the OCWR developed and launched the first-ever legislative branch-wide survey of the workplace climate, including attitudes regarding sexual harassment. This biennial survey reflects the ongoing commitment of Congress toward ensuring that legislative branch employees enjoy a safe and productive workplace. Survey responses will provide valuable feedback on the workplace environment.

While the OCWR continues to work on several Strategic Plan action items needed to achieve our

goal of advancing CAA principles through implementing the Reform Act provisions, we are proud of the significant progress we have made and the statutory deadlines we have met.

Advance the goals of the CAA, as amended by the Reform Act, through trusted relationships with congressional stakeholders

Ongoing support from the legislative branch community was critical to the Office's successful implementation of the CAA Reform Act. Before the effective date of the new ADR process, the OCWR worked directly with its congressional stakeholders, meeting frequently with legislative branch offices and committees, staff, and unions, to understand how the reforms would impact the covered community and to ensure that the Office was prepared to fully implement the CAA Reform Act by June 19, 2019, its effective date. The Office has worked hard to become a trusted expert and ready resource for employing offices, legislative branch employees, and the public at large about the CAA, as amended by the Reform Act, as reflected in our robust and easily accessible education and training materials, our Brown Bag lunches, and our ongoing outreach throughout the legislative branch community.

Provide comprehensive recommendations for substantive changes to the CAA and pursue adoption of Board regulations

As noted, the OCWR timely implemented new Procedural Rules conforming to all statutory changes made by the Reform Act. Our Office continues to monitor the impact of the CAA and the substantive implementing regulations with an eye toward future recommendations for changes as needed to achieve a legislative branch workplace free from discrimination, harassment, safety hazards, and accessibility barriers.





Education and Training

Goal IV—Educate the legislative branch community on its rights and responsibilities under the Congressional Accountability Act and promote courtesy and respect in the congressional workplace

The OCWR has a statutory mandate to provide a program to educate Members of Congress and legislative branch staff on their rights and responsibilities under the CAA. This important responsibility provides the backdrop for the OCWR's strategic goal to not only educate employees and employing offices on their statutory rights and responsibilities, but to promote a congressional workplace where courtesy and respect prevail. The OCWR has developed several key initiatives to meet this important goal.

Foster compliance with the CAA through a program to educate the covered community and promote respect in the congressional workplace

The OCWR provides a program to educate employees and employing offices of the legislative branch on their rights and responsibilities under the laws applied by the CAA, including the right to work free from discrimination and harassment. The OCWR uses different tools to effectively reach the legislative branch community. We train congressional staff both in person and via web conferencing. The OCWR's website provides tutorials (including videos and online interactive modules) and publications available for easy download that inform and promote workplace rights and hazard-free workspaces.

The OCWR's training program also provides covered employees with information to help them successfully navigate issues they are experiencing in the workplace. For example, the OCWR provides online and in-person training on effective bystander intervention. This training is designed to increase awareness of workplace harassment and provide effective tools to prevent it. The OCWR also offers a course on unconscious bias that is designed to raise awareness of spontaneous thought processes that may impact decisions in the workplace. These materials go beyond teaching to the "letter of the law" under the CAA,

toward facilitating a culture shift in the workplace rooted in mutual respect and civility.

In 2019, the OCWR conducted more than 50 in-person training sessions for covered employees. Training was provided at the request of the employing offices, and open sessions were scheduled by the OCWR for all interested legislative branch employees who signed up. To ensure nationwide access beyond the Capitol Hill campus, the OCWR offered training through web conferencing, enabling congressional employees working in state and district offices to participate. Popularly requested topics included instruction on employment rights under the CAA, preventing sexual harassment and discrimination, recognizing unconscious bias, and developing tools for effective bystander intervention.

The OCWR's Office of the General Counsel (OGC) conducts an ongoing Brown Bag Lunch Series, in person and via web conferencing, to share its expertise with legal counsel from the legislative branch on various substantive areas covered by the CAA. In 2019, the OGC conducted five Brown Bag sessions on topics ranging from the implementation of the CAA Reform Act to a preview of United States Supreme Court employment law cases; stakeholder feedback from these sessions has been uniformly positive. Informative materials from the Brown Bag Lunch Series are

In-person Training Events	
Topic	Sessions Conducted
CAA Overview	17
Anti-harassment/ Anti-discrimination	6
Bystander Intervention	10
Unconscious Bias	16
VEOA	3

Online Training ¹	
Topic	Sessions Conducted
Anti-harassment/ Anti-discrimination	580
Anti-sexual Harassment	1,441
Bystander Intervention	121
Disability Discrimination	47
Family and Medical Leave Act	57

¹ The OCWR provides many educational videos on its website that are viewed daily. The numbers presented in this chart reflect only those modules for which visits were tracked through a learning management system.

available on the OCWR website. The online and periodic publication of “Fast Facts” provides additional updated guidance to legislative branch staff on worker protection and office safety and accessibility.

In December 2019, the OCWR launched the first-ever legislative branch-wide secure survey of the workplace environment, including attitudes regarding sexual harassment. The OCWR intends to use the relevant survey information to focus and direct its program of education and training for the covered community.

We have strived to make our website, ocwr.gov, useful, comprehensive, and readily accessible to the congressional community, including by listing all available online and in-person training in our course catalog, found by clicking on the “Resources and Training” tab on our home page.

Create opportunities to engage with employing offices, staff associations, and other legislative branch organizations to effectuate the mission of the OCWR

The OCWR maintains a list of key congressional contacts, enabling it to effectively reach more than 30,000 covered employees and unpaid staff throughout the country. This ability to connect with the

legislative branch community was of critical importance to the OCWR as it began to implement the CAA reforms. Prior to the Reform Act’s June 19, 2019 effective date, the Office convened with OCWR staff, mediators, and hearing officers to critically examine the provisions of the CAA Reform Act. The conference participants lent their expertise on the legal and procedural impact of the reforms to ensure that any newly revised procedures met the intent of the law. This careful deliberation laid the groundwork for the OCWR’s adoption of its new Procedural Rules, as well as the development of critical educational materials.

Following the issuance of the Procedural Rules, the OCWR held a two-part ADR Summit on the new ADR procedures in November 2019 for representatives of employees and of employing offices. During these interactive sessions, the OCWR demonstrated its secure online claim filing system and provided useful insight into the confidential advising, mediation, preliminary review, merits, and appeal processes newly introduced under the Reform Act.

The OCWR continues to create opportunities to engage with employees, employing offices, unions, staff associations, and other legislative branch organizations,

advancing workplace rights, safety & health, and accessibility in the legislative branch

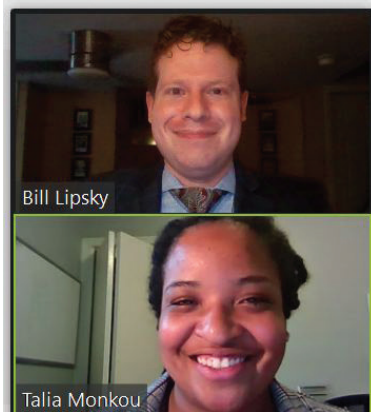
OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

Adams Building, Room LA 200
110 2nd Street, SE
Washington, DC 20540

www.ocwr.gov

(202) 724-9250 @OCWR_LegBranch OCWR_LegBranch

OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS UNITED STATES CONGRESS



In 2019, the OCWR significantly enhanced its social media presence, driving up the number of its followers by double digits on numerous platforms including Twitter, Instagram, and Facebook.

to further its mission to effectively and efficiently implement and enforce the CAA.

Maintain a dynamic web and social media presence to effectively distribute information on the OCWR and the CAA

The OCWR maintains a dynamic website and robust social media presence to ensure that all legislative branch staff, no matter where they are located, have easy access to OCWR resource materials. To educate

the congressional community on the impact of the newly amended CAA, the website, ocwr.gov, features a video introduction to the Reform Act and the recently amended Procedural Rules. Online training modules (which are comprehensively catalogued), substantive regulations, safety and health biennial reports, and Board decisions are among the many informative materials also available on the website. The OCWR website is constantly updated to feature new training and educational materials as they are developed.

In 2019, the OCWR significantly enhanced its social media presence, driving up the number of its followers by double digits on numerous platforms including Twitter, Instagram, and Facebook. The Office also began development of a comprehensive video explaining the substantive provisions of the CAA as well as the newly updated procedures to resolve claims alleging violations of the Act.

To implement the Reform Act's directive, the OCWR website was modified to include claim forms with detailed instructions for securely and confidentially filing claims through the OCWR's new online filing system, SOCRATES. Frequently Asked Questions (FAQs) concerning the provisions of the CAA Reform Act, the Congressional Climate Survey, and other current topics are also available on the website.

The OCWR continues to provide the entire legislative branch community with information and services in person, online, and via web conferencing, ensuring that state and district staff have the same access to OCWR services and resources as employees on Capitol Hill.

Take The Survey

First-ever workplace climate survey of the legislative branch: The Congressional Climate Survey

Anonymous • Confidential • Secure

For more information, visit the Office of Congressional Workplace Rights website at www.ocwr.gov.

CONNECT WITH US!

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- Office of Congressional Workplace Rights
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Administrative Dispute Resolution

Goal II—Provide an efficient and effective administrative dispute resolution (ADR) program

**ASSERTING
WORKPLACE RIGHTS**
Ensure that ADR processes meet statutory and regulatory mandates, including mandates for maintaining confidentiality

The OCWR is responsible for administering and ensuring the integrity of an ADR program to resolve alleged violations of certain provisions of the CAA. In 2019, the OCWR monitored all case activity and ensured that all matters were processed through the ADR program in accordance with the statutory and regulatory mandates. The Office also timely developed and implemented a secure and confidential online claims filing system by the June 19, 2019 statutory deadline.

Monitor ADR processing timeframes to meet statutory and regulatory requirements, ensure case inventories are maintained at a manageable level, and provide accurate ADR reporting mechanisms

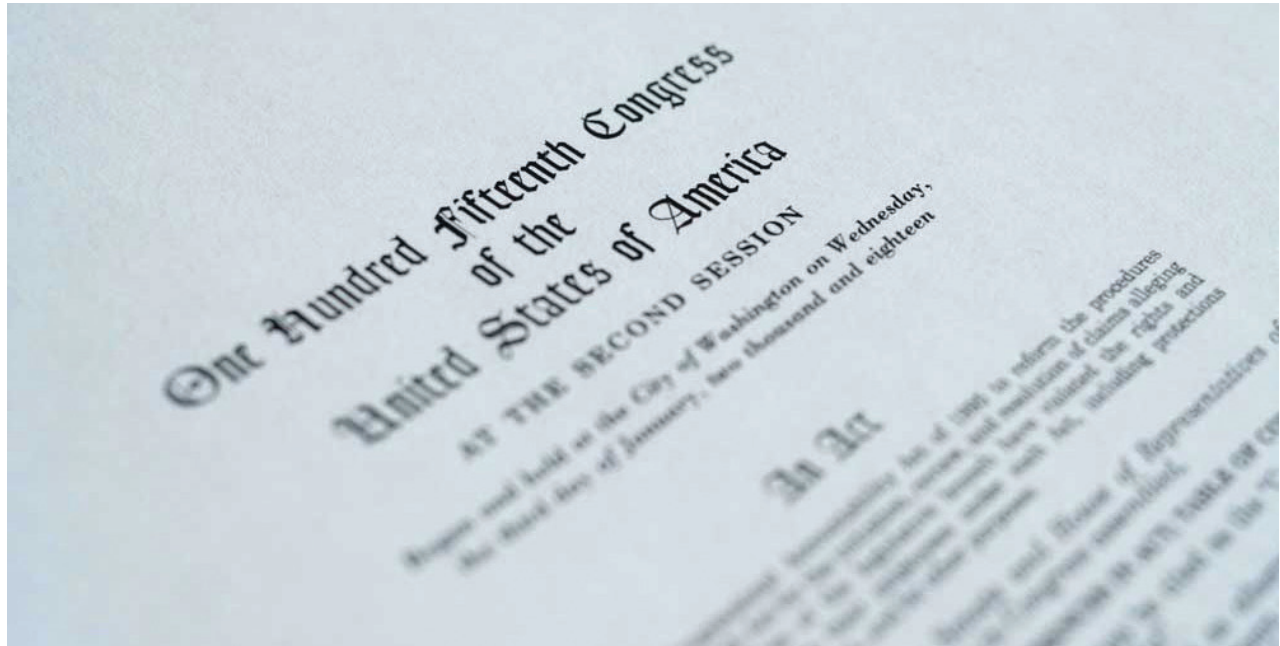
In accordance with established requirements, the OCWR provides secure access to the ADR program, monitors timelines, ensures impartial proceedings, and empowers stakeholders to effectively resolve workplace matters. The OCWR carefully monitors the progress of all ADR proceedings and safeguards the competency of those proceedings by continually engaging with staff and service providers to ensure the highest level of service.

Consistent with its strategic initiative to meet statutory and regulatory mandates, the OCWR also conducts periodic quality control assessments through its participant surveys, which invite feedback from program participants on the effectiveness of the ADR process.

Ensure that stakeholders have access to appropriate ADR processes and records

The OCWR encourages stakeholders to effectively use the ADR process, including the mediation option, for the efficient resolution of disputes. To ensure ready access to the ADR process and related records, the OCWR provides a secure online filing system for claims alleging a violation of the CAA. Continuous monitoring of the ADR process is expected to reveal valuable information that will enable the OCWR to make an informed assessment of the effectiveness of proceedings and any need for change.

To further ensure that stakeholders can effectively access the OCWR's ADR process, we highlight in this section how cases are processed through the ADR program, both before and after the effective date of the Reform Act procedures. The “former” process governs cases filed with the OCWR prior to June 19, 2019. The “current” process governs claims filed with the OCWR on or after June 19, 2019, the effective date the CAA Reform Act required the new ADR process to begin.



To further ensure that stakeholders can effectively access the OCWR's ADR process, we highlight in this section how cases are processed through the ADR program, both before and after the effective date of the Reform Act procedures.

Case Processing Within the ADR Program—Both Former and Current Processes

1. Former process: Cases filed with the OCWR before June 19, 2019 went through a multistep dispute resolution process

STEP 1 The first step in the former process to resolve disputes was for an employee to file a written request for counseling with the OCWR. During the counseling period, an OCWR counselor discussed an employee's concerns on a strictly confidential basis and informed the employee of his or her rights under the CAA. A covered employee could, at his or her own expense, retain representation (such as an attorney) at any time during the dispute resolution process.

STEP 2 If an alleged CAA violation was not resolved during the counseling phase, and the employee wished to pursue the matter, the CAA required that the case go through mediation. During mediation, a neutral mediator met with the parties to seek a mutually acceptable solution to the dispute. Mediation allowed the parties to discuss and explore issues and options in a strictly confidential environment

and permitted the parties to craft their own resolution of the dispute, thereby avoiding formal adjudication in an adversarial proceeding.

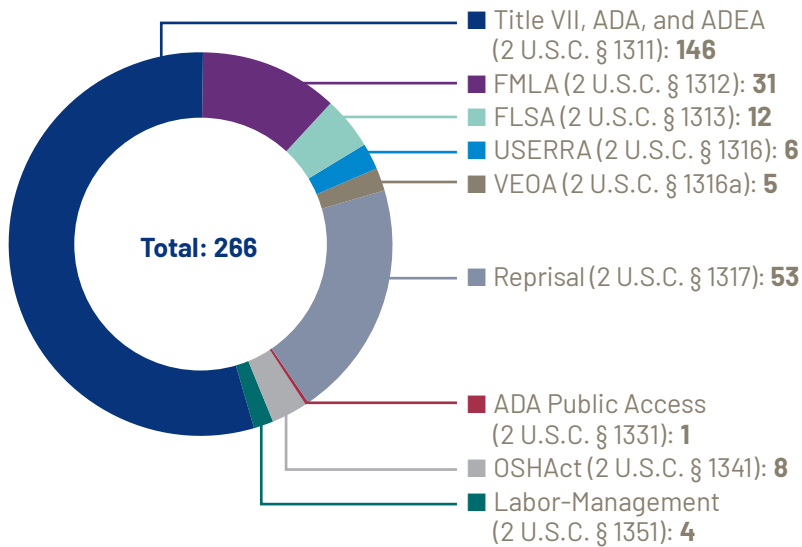
STEP 3 If mediation failed to resolve the dispute, the employee either could file an administrative complaint and proceed with a confidential administrative hearing at the OCWR or file a civil suit in federal district court. If the employee chose to pursue an administrative hearing, he or she had to file a written complaint with the OCWR. An independent OCWR hearing officer would conduct a hearing and thereafter issue a written decision. If the employee chose to proceed with a civil action in federal district court, the case would proceed under the rules that normally apply to such actions.

STEP 4 After an administrative hearing, if either the employee or the employing office was dissatisfied with the hearing officer's final decision, the dissatisfied party could request review of the decision by the OCWR's Board of Directors. If the employee or the employer was dissatisfied with the Board of Directors' ruling, the decision could be appealed to the U.S. Court of Appeals for the Federal Circuit.

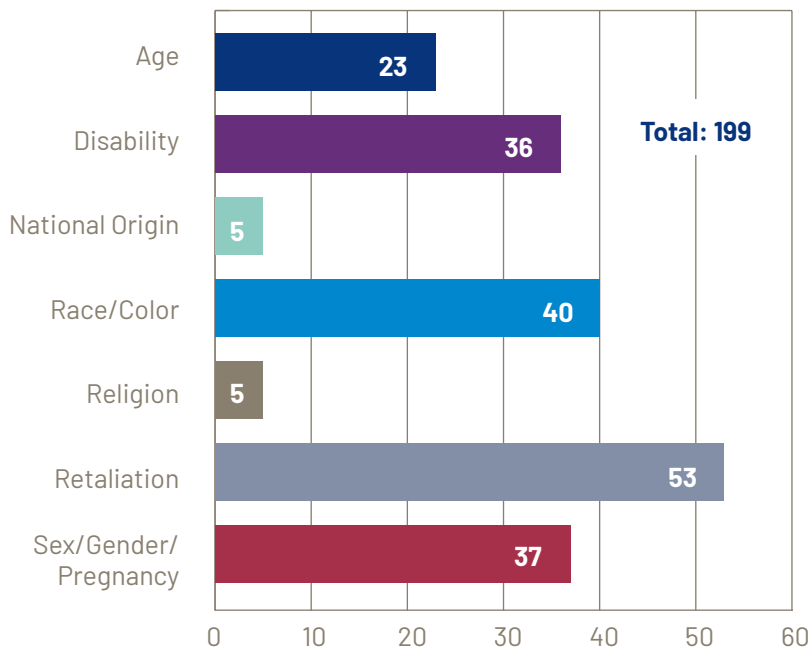
ADMINISTRATIVE DISPUTE RESOLUTION STATISTICS: PRE-REFORM ACT FROM OCTOBER 1, 2018 TO JUNE 18, 2019

General Information Requests From Covered Employees by Section of the CAA

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.

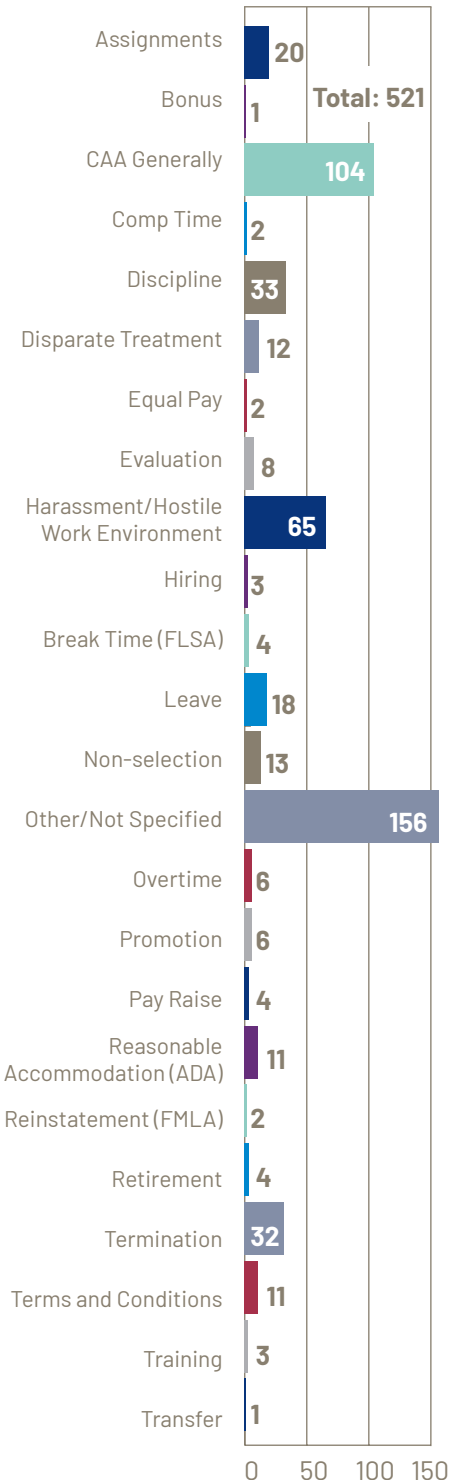


Information Requests by Covered Employees Regarding Discrimination and Retaliation



General Information Requests From Covered Employees by Workplace Issue

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



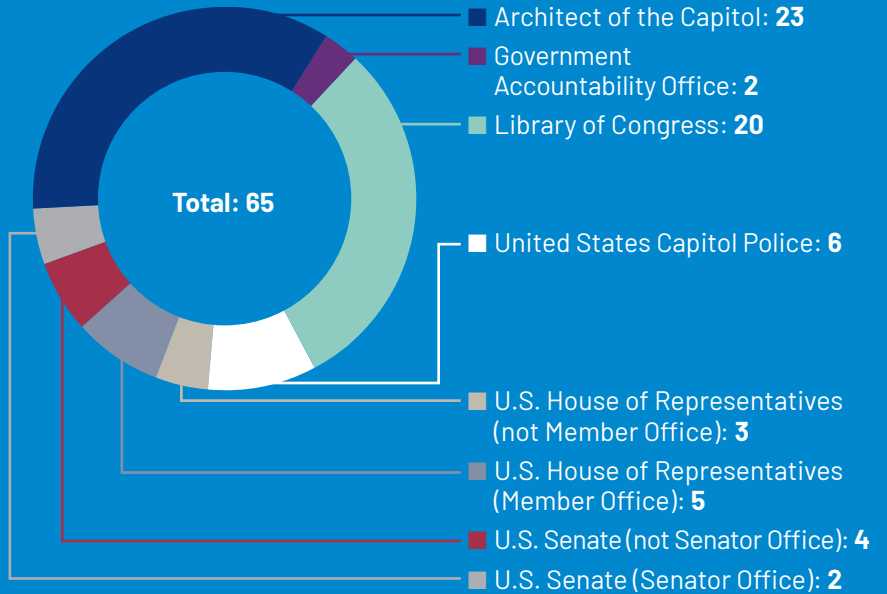
**ADMINISTRATIVE DISPUTE RESOLUTION STATISTICS: PRE-REFORM ACT
FROM OCTOBER 1, 2018 TO JUNE 18, 2019**

Counseling

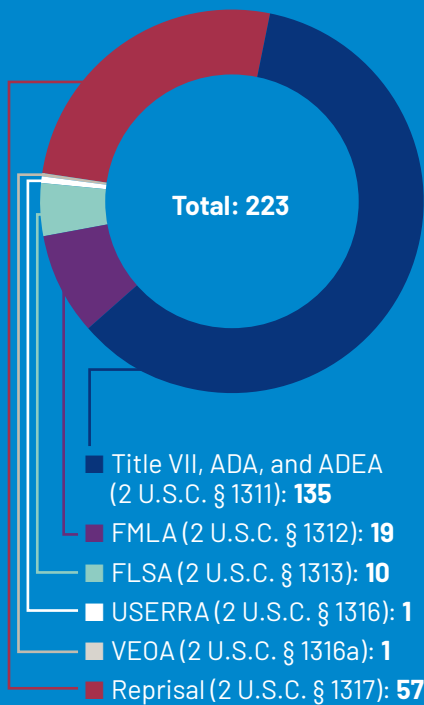
Cases pending in counseling from the previous fiscal year	15
Counseling requests filed	65
Total	80

Cases withdrawn/ no further action	17
Cases pending in counseling at the end of 2019	0
Requested mediation	55
Waiting period to request mediation	8

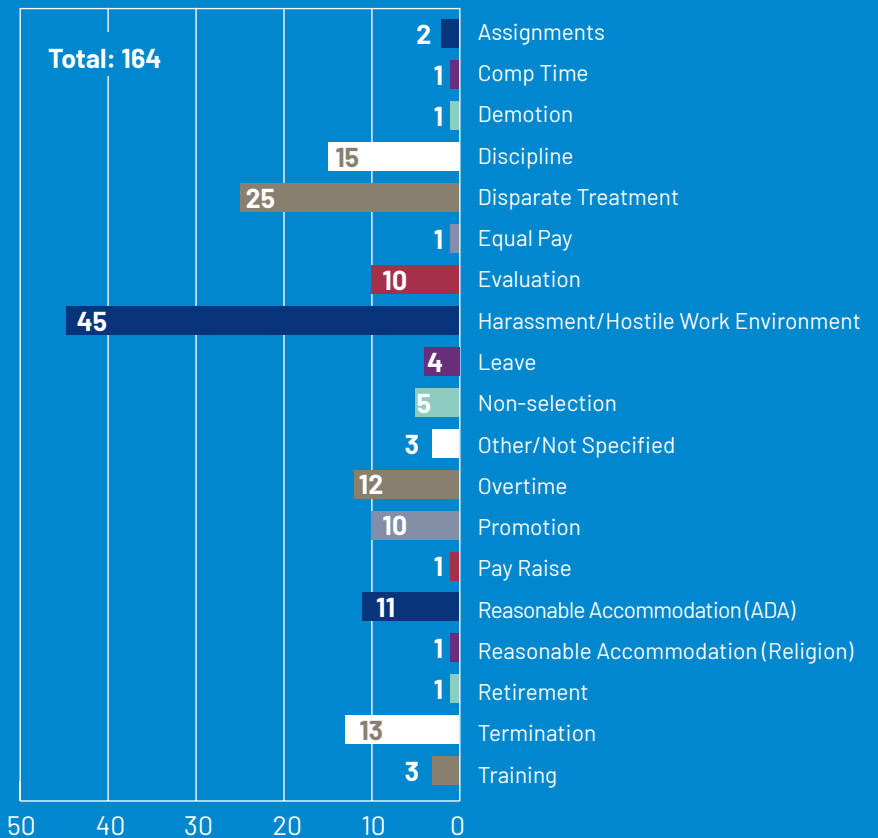
Employing Offices Involved in Formal Requests for Counseling Filed



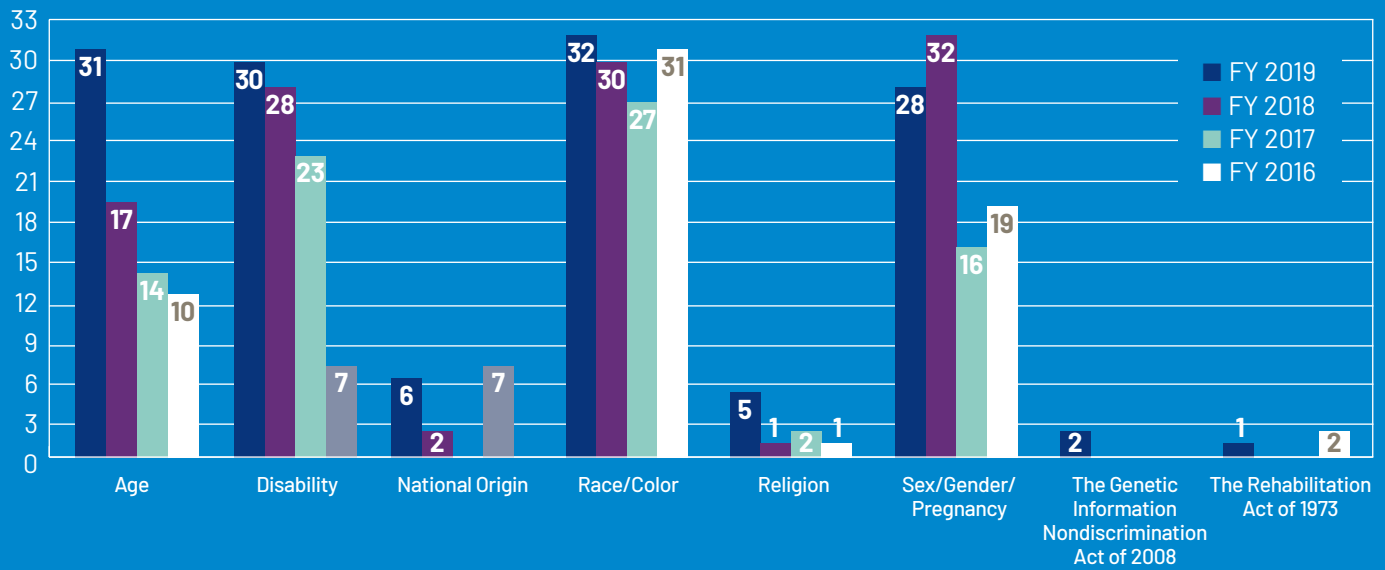
Formal Requests for Counseling by Section of the CAA



Workplace Issues Raised in Counseling



2 U.S.C. § 1311 Allegations of Discrimination and/or Harassment Listed by Protected Category Raised in Counseling From October 1, 2018 to June 18, 2019



ADMINISTRATIVE DISPUTE RESOLUTION STATISTICS: PRE-REFORM ACT FROM OCTOBER 1, 2018 TO JUNE 18, 2019

Mediation Proceedings

Pending from previous fiscal year	28
New mediation requests	55
Total	83

Resolved in mediation (settled/withdrawn)	52
Pending in waiting period to file complaint at the end of 2019	14
Pending in mediation at the end of 2019	3
Administrative complaints filed	14

Administrative Complaint Proceedings

Complaints pending from the previous fiscal year	1
New complaints filed	14
Total	15

Hearing officer decisions issued	4
Decisions appealed	0
Cases pending in hearing at the end of the fiscal year	5
Cases withdrawn without settlement	1
Cases settled	5

The CAA Reform Act significantly changed how cases are processed in the ADR program.

2. Current process: Cases filed with the OCWR on or after June 19, 2019 go through a new dispute resolution process

The CAA Reform Act significantly changed how cases are processed in the ADR program. What follows is a summary of the current ADR process.

Confidential Advising

As with the former process, the current process permits covered employees to contact the OCWR before filing a claim form to seek information about their rights and the procedures under the CAA. Rather than mandatory counseling, however, the new process offers privileged and confidential advising services to covered employees at no cost to them. The confidential advisor is an experienced employment law attorney who functions independently and advises covered employees about their rights and responsibilities under the CAA and the procedural options available to resolve their workplace disputes. The confidential advisor may also assist a covered employee in drafting their claim form.

Confidential advising services are optional, not mandatory, and the confidential advisor is not the employee's attorney or advocate. Covered employees may, however, designate an attorney or a non-attorney representative to represent them in the ADR process.

Employees of the U.S. House of Representatives also may contact the Office of Employee Advocacy to request free representation when pursuing claims under the CAA.

Filing a Claim

Regardless of whether an employee wishes to continue with proceedings through the OCWR's ADR process or to file a civil action in federal court, the employee must first

file a claim form with the OCWR. Employees may use OCWR's online filing system, SOCRATES, available at <https://socrates.ocwr.gov/> or use other methods such as email, facsimile, or hand-delivery to submit a downloadable claim form.

Once the claim form is received, the OCWR records it and provides the claimant with information about his or her rights under the CAA. The OCWR transmits a copy of the claim form to the head of the employing office and to the employing office's representative. If a claimant asserts that a Member of the U.S. House of Representatives or the U.S. Senate personally committed unlawful harassment or reprisal for filing a claim of harassment or violated an applicable Senate or House of Representatives rule that would require the Member of Congress to reimburse the Treasury account established by Section 415(a) of the Act, 2 U.S.C. § 1415(a), the OCWR notifies the Member of Congress that he or she has the right to intervene and participate in OCWR proceedings concerning the claim.

Preliminary Review

Each claim form undergoes a preliminary review by an independent hearing officer, known as a preliminary hearing officer, to determine whether the claimant is a covered employee who has stated a claim for which, if the allegations in the claim form are true, relief may be granted under the CAA. If the preliminary review officer determines that the claimant is a covered employee who has stated at least one claim for which relief may be granted under the Act, then the claimant may either obtain an administrative hearing concerning all claims asserted or file a civil action, but the claimant may not do both.

The preliminary review report also must be submitted to the House or Senate ethics committee whenever a



About the CAA Reform Act:
<https://bit.ly/2VFcymf>

claim is filed against a Member of the U.S. House of Representatives or the U.S. Senate for unlawful harassment in violation of 2 U.S.C. § 1311(a) or 1316(a) or unlawful intimidation, reprisal, or discrimination under 2 U.S.C. § 1317 that was taken against a covered employee because of a claim alleging unlawful harassment in violation of 2 U.S.C. § 1311(a) or 1316(a).

If upon preliminary review, the preliminary hearing officer determines that the claimant is not a covered employee who has stated a claim for which relief may be granted under the CAA, the claimant is notified that an administrative hearing at the OCWR is not available, and that filing a complaint in federal district court is their only remaining option.

If the preliminary hearing officer determines that the claimant is a covered employee who has stated at least one claim for which relief may be granted under the CAA, the claimant may request an administrative hearing with the OCWR or file a complaint in federal district court, but the claimant may not do both.

Empower stakeholders to effectively resolve their workplace disputes without having to engage in protracted dispute resolution proceedings

In addition to educating congressional staff on the opportunity to consult with a confidential advisor, the OCWR has continued to highlight the value of its mediation services in potentially resolving workplace disputes.

Mediation

Mediation is a highly effective process by which the parties to a dispute meet with a trained and experienced neutral party to discuss their concerns and focus on resolving their differences without having a decision imposed upon them by a judge or a hearing officer.

Under the Reform Act, mediation is voluntary and may be requested by either the claimant or the employing office at any time after the employing office receives notice of the claim and up until the date when a hearing officer issues a final written decision on the merits or the claimant files a civil action. The OCWR retains a team of highly qualified mediators to assist stakeholders in recognizing and shaping solutions to their workplace disputes, short of formal adjudication in an administrative or a judicial forum.

A matter will proceed to mediation only if one party requests—and the other party agrees—to mediate the matter. Upon mutual agreement to mediate, processing of the claim is stayed for 30 days—which may be extended an additional 30 days—to seek a mutually agreeable resolution of the matter. Mediation enables the parties to maintain control over the process and the outcome of their dispute.

Administrative Hearing

Claimants may proceed to an administrative hearing within the OCWR only if the preliminary hearing officer determines that the claimant is a covered employee who has stated a claim upon which relief may be granted. Once a hearing has been requested, an independent hearing officer, known as the merits hearing officer, who cannot be the same individual who conducted the preliminary review, is assigned to conduct the hearing and decide the matter.

Appeals

After an administrative hearing is conducted, the merits hearing officer issues a decision. Any party dissatisfied with the hearing officer's decision on the merits of the case may file a petition requesting that the OCWR's Board of Directors review the decision. The OCWR has five independent

Board members appointed by Congress on a nonpartisan basis, who are experts in labor and employment law. After its appellate review, the Board issues a written decision. If a party is dissatisfied with the Board's ruling, the ruling may be appealed to the U.S. Court of Appeals for the Federal Circuit.

District Court Filing

An employee who has filed a timely claim form with the OCWR may choose to file a complaint in federal district court within 70 days of the date their claim was filed with the OCWR, or within 90 days of the date the claimant receives the report on the preliminary review. A claimant filing a complaint in federal district court must notify the OCWR within three days of the filing and may not also request an administrative hearing with the OCWR. Filing a complaint in court terminates the OCWR's administrative processing of the claim.

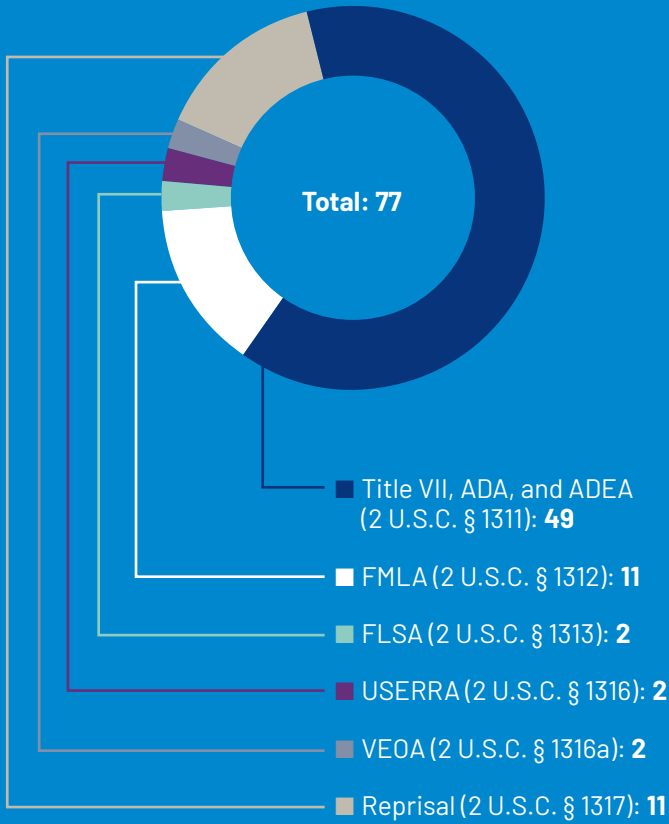
Awards, Penalties, and Attorney Fees

Depending on the law and the facts of the case, the merits hearing officer, the OCWR's Board of Directors, or a federal court may order monetary awards and other appropriate remedies, such as reinstatement, promotion, or back pay. Attorney fees, expert witness fees, and certain other costs also may be awarded. No civil penalties or punitive damages may be awarded for any claims under the CAA.

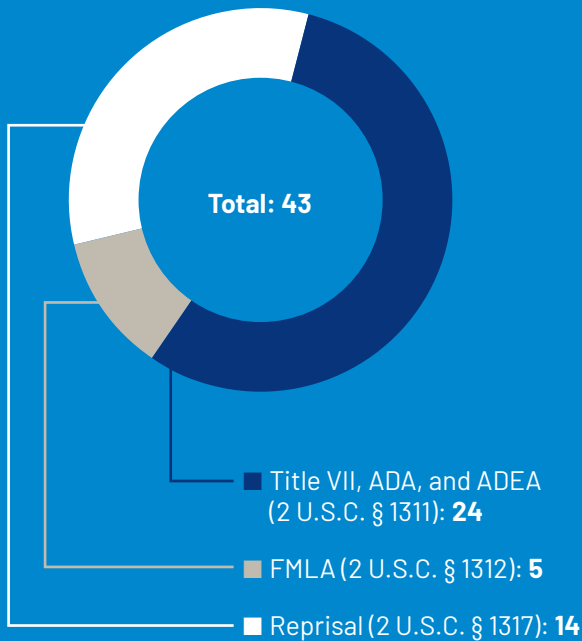
Requests for inspections under the Occupational Safety and Health Act (OSHAct), charges filed under Titles II and III of the Americans with Disabilities Act (public access), and labor-management relations disputes are resolved through the Office of the General Counsel of the OCWR.

**ADMINISTRATIVE DISPUTE RESOLUTION STATISTICS:
POST-REFORM ACT FROM JUNE 19, 2019 TO DECEMBER 31, 2019**

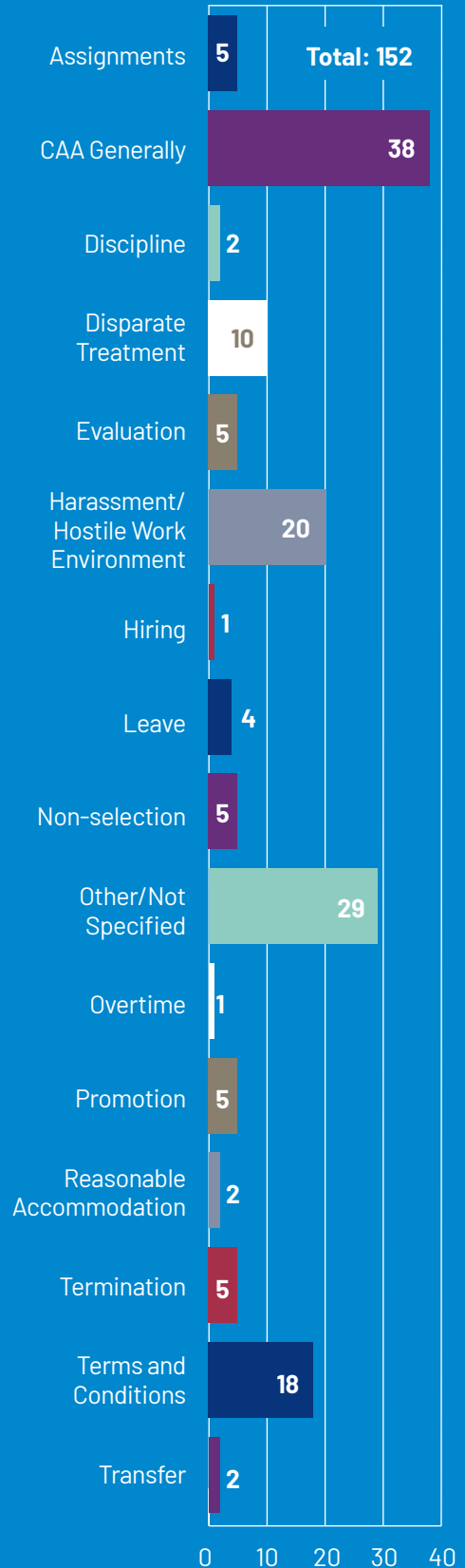
General Information Requests From Covered Employees by Section of the CAA



Requests for Confidential Advising by Section of the CAA



General Information Requests From Covered Employees by Workplace Issue



**ADMINISTRATIVE DISPUTE RESOLUTION STATISTICS:
POST-REFORM ACT FROM JUNE 19, 2019 TO DECEMBER 31, 2019**

Activity for Claims Filed

Claims settled	0
Preliminary review	18
Report of preliminary review issued	15
Claims passed preliminary review	13
Claims withdrawn during preliminary review	1
Pending in preliminary review	2
Filed in district court	2
Mediation requested	5
Hearing requested	11
Hearing decisions issued	2
Pending before a merits hearing officer	7
Total	20

Mediation Proceedings

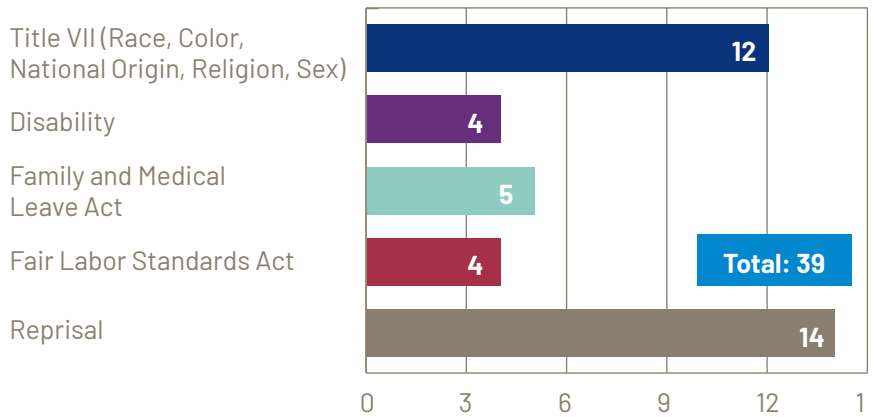
Mediation requests filed	5
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Settlements and Awards by Fiscal Year

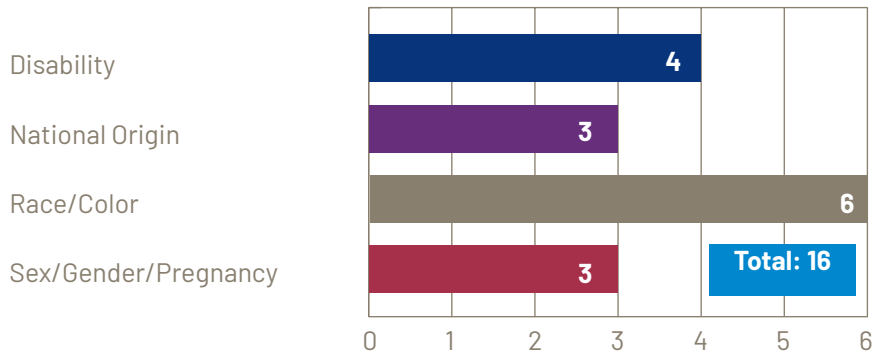
Fiscal Year	Number*	Total \$ Amount
1997	7	\$45,729
1998	16	\$103,180
1999	6	\$72,350
2000	16	\$55,638
2001	7	\$121,400
2002	10	\$3,974,077
2003	11	\$730,071
2004	15	\$388,209
2005	14	\$909,872
2006	18	\$849,529
2007	25	\$4,053,274
2008	10	\$875,317
2009	13	\$831,360
2010	9	\$246,271
2011	16	\$437,465
2012	12	\$426,539
2013	14	\$334,823
2014	11	\$806,450
2015	13	\$483,529
2016	14	\$573,929
2017	8	\$934,754
2018	10	\$338,816
2019	16	\$600,363

*Monetary settlements and awards may resolve multiple alleged CAA violations across fiscal years.

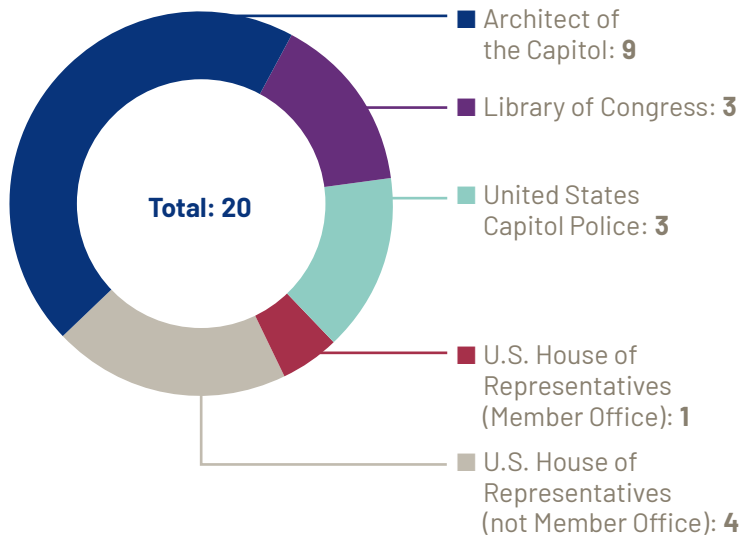
Claims Filed by Section of the CAA



2 U.S.C. § 1311 Claims Listed by Protected Class



Employing Office Involved in Claims Filed





Board of Directors

The OCWR Board of Directors is comprised of five members appointed jointly by the majority and minority leadership of both the U.S. House of Representatives and the U.S. Senate. The OCWR, in administering the CAA, performs the comparable jobs of multiple agencies in the executive branch, including the Equal Employment Opportunity Commission, the Department of Justice, the Department of Labor, and the Federal Labor Relations Authority. The Board members are attorneys chosen for their expertise in employment and labor law in the private sector. Their full biographies appear on the OCWR website at [ocwr.gov](https://www.ocwr.gov). The Board is responsible for adjudicating disputes under the CAA, promulgating regulations and rules of procedure implementing the CAA's statutory requirements, and recommending to Congress changes to the CAA to advance the rights of congressional employees.

Conduct OCWR proceedings proficiently and completely, ensuring that matters are settled in accordance with the CAA and the Rules, and that decisions issued to resolve disputes are legally sound and well supported by case law and precedent

The Board is the appellate body in the OCWR's administrative dispute resolution (ADR) process, and, as such, its decisions set legal precedent for the interpretation and application of workplace rights and accessibility laws in the legislative branch. The Board decides cases on review from merits hearing officers' rulings on employee claims, including claims alleging unlawful employment discrimination and reprisal, among others.

The Board issues final decisions on union representation and election petitions, negotiability petitions, and exceptions to arbitrators' awards. The Board also reviews hearing officers' decisions on complaints filed by the OCWR General Counsel alleging violations of the CAA provisions relating to public services and accommodations under the Americans with Disabilities Act, the occupational safety and health protections of the Occupational Safety and Health Act, and the unfair labor practice prohibitions in the Federal Service Labor-Management Relations Statute.

In conformance with the OCWR Strategic Plan, the Board engages in

a careful deliberative process when deciding matters on review. That process produces Board decisional precedent regarding the meaning and application of the CAA that is well reasoned and legally sound. Between October 1, 2018 and December 31, 2019, the Board issued two decisions affirming hearing officer orders resolving ADR matters, affirmed a decision and order of a hearing officer granting fees, and dismissed a negotiability appeal on remand from the U.S. Court of Appeals for the Federal Circuit. In that same time period, the U.S. Court of Appeals issued two decisions concerning matters on appeal from orders of the Board. In its first decision, the Court enforced the Board's ruling on the arbitrability of certain matters. In its second decision involving four consolidated appeals, the Federal Circuit enforced the Board's decision in part and remanded one of the Board's holdings. The decisions of the OCWR Board of Directors can be found at <https://www.ocwr.gov/decisions-board-directors>.

In addition to deciding cases on review, the Board has rulemaking responsibilities under the CAA. Under 2 U.S.C. § 1383, the Executive Director, as Chief Operating Officer, adopts rules of procedure governing the OCWR, subject to Board approval. The OCWR's Procedural Rules establish the processes by which alleged violations of the 13 laws made applicable to the legislative branch under the CAA are considered and

resolved. In light of the major changes in the CAA Reform Act to the OCWR's ADR program, the OCWR in 2019 conducted a comprehensive review of its procedures. Based on that review, the Board approved and promulgated revised Procedural Rules, which apply to all claims and complaints filed with the OCWR on or after June 19, 2019.

Provide comprehensive recommendations to Congress regarding substantive changes to the CAA and pursue congressional adoption of the Board's regulations

Consistent with its strategic initiatives, the Board adopts for congressional approval substantive regulations implementing workplace laws under the CAA. Without congressional approval, the Board's adopted substantive regulations do not go into effect. The Board looks forward to working with Congress on future rulemaking to ensure full implementation of the CAA.

The CAA was crafted to provide for ongoing Board review of the workplace and accessibility laws that apply to Congress. Under 2 U.S.C. § 1302(b), the Board is tasked with reporting to each Congress on whether or to what degree provisions of federal law relating to terms and conditions of employment and access to public services and accommodations are applicable to the legislative branch, and with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable.

Many of the reforms adopted by Congress in the CAA Reform Act reflect recommendations long made by the OCWR's Board in prior Section 102(b) Reports. For example, the Board has consistently recommended mandatory anti-discrimination, anti-harassment, and anti-reprisal training for Members of Congress and for all legislative branch employees. As part of their reform of the congressional workplace, the House and Senate adopted resolutions requiring all

Members, Officers, and employees, as well as interns, detailees, and fellows, to complete anti-harassment and anti-discrimination training. The CAA Reform Act includes broad training mandates for the congressional workforce and requires employing offices (other than the House and Senate) to develop and implement training programs to educate covered employees on their statutory rights under the CAA and to report to congressional oversight committees on the implementation of such training programs.

The CAA Reform Act further adopted the Board's consistent Section 102(b) recommendation to require employing offices to conspicuously post notices regarding employee workplace rights under the CAA, including the Office's ADR processes and contact information. The Reform Act also followed prior Section 102(b) recommendations by the Board to extend the coverage and protection of the CAA's anti-discrimination, anti-harassment, and anti-reprisal provisions to unpaid staff including interns, fellows, and detailees.

The OCWR Board is proud of the impact that its past Section 102(b) Reports and recommendations have had in shaping important congressional reform of the legislative branch workplace. The Board will continue to provide Congress with thorough and well-reasoned analyses and recommendations for future reform of the CAA through its biennial Section 102(b) Reports. The Section 102(b) biennial report with the Board's recommendations for the 116th Congress was issued in 2019 and is available on the OCWR's website at ocwr.gov.

Petitions for Board Review From October 1, 2018 to December 31, 2019

Board decisions issued	5
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ADR cases resolved	2
Labor cases resolved	3
Total	5

ADR Cases

Pending from previous year	2
New appeals filed from October 1, 2018 to December 31, 2019	0
Resolved by the Board	2
Board decisions appealed to the Federal Circuit	2
Pending before the Board	0

Labor Relations Cases

Pending from previous year	1
New appeals filed from October 1, 2018 to December 31, 2019	0
Resolved by the Board	2
Board decisions appealed to the Federal Circuit	2
Board decisions that were the subject of enforcement actions in the Federal Circuit from October 1, 2018 to December 31, 2019	2
Pending before the Board	0



Section 102(b) Recommendations to Congress:
<https://bit.ly/2W0Qsxc>

From the Office of the General Counsel

The General Counsel of the OCWR is responsible for matters arising under three sections of the CAA: Section 215 (2 U.S.C. § 1341), which applies the Occupational Safety and Health Act of 1970 (OSHAct); Section 210 (2 U.S.C. § 1331), which applies the public services and accommodations provisions of the Americans with Disabilities Act of 1990 (ADA Titles II and III); and Section 220 (2 U.S.C. § 1351), which applies the unfair labor practices (ULP) provisions of the Federal Service Labor-Management Relations Statute under Chapter 71 of Title 5, United States Code.

From October 1, 2018 to December 31, 2019,¹ the Office of the General Counsel (OGC) began its biennial OSH and ADA inspections for the 116th Congress, completed several OSH and ADA investigations, opened new OSH and ADA investigations based on reported incidents or requests from covered employees and the public, and continued to work with employing offices to abate safety and health hazards and remove barriers to access for persons with disabilities.

The OGC also successfully defended decisions of the OCWR Board in several matters before the U.S. Court of Appeals for the Federal Circuit, including two ULP cases and two matters arising out of the OCWR's administrative dispute resolution process.

The OGC continued to enhance its education and outreach efforts, including through online publications and training sessions; Union Forums, which bring together representatives from legislative branch labor organizations for presentations on topics of interest; and the ongoing Brown Bag Lunch series, which aims to educate legal counsel from the legislative branch on various statutes covered by the CAA to facilitate the employing offices' compliance with applicable laws. Five Brown Bag sessions in the past year covered the CAA Reform Act and the revised OCWR Procedural Rules, as well as the Age Discrimination in Employment Act, the ADA public access provisions, issues surrounding third-party harassment, and a preview of employment law cases to be decided by the United States Supreme Court in its upcoming term.

The OGC continued to enhance its education and outreach efforts, including through online publications and training sessions, Union Forums, and the ongoing Brown Bag Lunch series.

¹ For purposes of this section, "FY19" encompasses the period from October 1, 2018 to December 31, 2019.



Tips for Improving Office Accessibility: <https://bit.ly/2Q4ntAx>
Brown Bag Lunch Series: <https://bit.ly/3kUCcML>
OSH/ADA Resources and Fast Facts: <https://bit.ly/2CD3Nxs>

Goal III—Promote safe and healthful workplaces in the legislative branch and fully accessible facilities for congressional constituents and visitors

SAFETY AND HEALTH

CAA Section 215 (2 U.S.C. § 1341) requires compliance with the OSHA Act, which mandates that employing offices comply with occupational safety and health standards and provide employees with workplaces 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 concerns raised by 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 OGC works with the employing offices to monitor and support their abatement efforts. 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. Complaints are adjudicated by OCWR hearing officers, whose decisions may be appealed to the OCWR Board and then to the U.S. Court of Appeals for the Federal Circuit.

Conduct timely, accurate, and efficient OSH and ADA assessments

Inspections, Investigations, and Education

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 congressional leadership and the Architect of the Capitol.

In FY19 the OCWR's OSH specialists began their inspections for the 116th Congress, covering areas including the U.S. Botanic Garden; the Library of Congress' Jefferson, Madison, and Adams Buildings, and other Library of Congress facilities; various United States Capitol Police workplaces; the Office of Attending Physician; the Government Accountability Office; the House Members' offices; and other areas of the House Office Buildings. As in the last several Congresses and consistent with the OCWR's strategic initiative, the focus of these inspections has been on identifying and abating higher-risk hazards (i.e., those that pose the greatest risk of injury, illness, and death to legislative branch employees). Once again, as in previous inspections, the most common violations campus-wide related to electrical hazards, means of egress, and fire safety.

This year, as part of the biennial inspection, the OSH team also conducted "wall-to-wall" baseline inspections of the Helsinki Commission, the Congressional-Executive Commission on China, the China Review Commission, and the Stennis Center for Public Service, all of which were being inspected by the OCWR's OSH team for the first time after being added to the CAA's list of employing offices by the CAA Reform Act.

The OGC opened 12 new OSH cases in FY19 and worked with

the responsible employing offices to address a variety of employee concerns including indoor air quality issues and potential exposures to lead and volatile organic compounds, as well as an eye injury suffered by a legislative branch worker. Additionally, the OGC continued to work with employing offices to abate hazards identified in cases from previous years, involving lead paint remediation, asbestos-containing floor tiles, and HAZMAT training issues, among others.

Provide educational and training opportunities for stakeholders

This year, the OCWR continued to educate the legislative branch community regarding some of the safety and health topics that frequently affect covered employees. Outreach to Members' district and state offices continues through the use of the online safety self-certification process; new and updated "Fast Facts" appear on the OCWR's website; and training sessions this year included a presentation by the OGC's Certified Industrial Hygienist regarding current issues in industrial hygiene.

Safety Awards

For the 115th Congress the OCWR continued its Safety Recognition Award program for Members of Congress whose office spaces were found to be hazard-free during the biennial OSH inspections, as well as its Safety Advocate Award program for individuals who have made substantial contributions to improving safety in legislative branch facilities.

To be eligible for the Safety Recognition Awards for the 115th Congress, in addition to having hazard-free offices on Capitol Hill, to maximize effectiveness Members also were required to certify that their district and state offices had

completed self-inspections for common office safety hazards. As a result of this new requirement, the OCWR presented fewer safety awards in 2019 than previously. The OCWR anticipates that, as offices adapt to the new certification requirement, the number of safety awards will increase. Additionally, for the 115th Congress, the OCWR presented several Safety Recognition Awards to trade shops whose work and storage areas were found to be hazard-free during the biennial inspection. The Safety Advocate Award recipients for the 115th Congress were Sharon Cregger of the Library of Congress and David Hicks of the Office of the Architect of the Capitol.

The awards were presented in conjunction with the National Safety Council at a ceremony in July 2019. The keynote speaker was Senator Chuck Grassley, one of the original sponsors of the CAA.

ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS

CAA Section 210 (2 U.S.C. § 1331) requires legislative branch 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: (1) biennial inspections; and (2) investigations based on Requests for Inspection and Charges of Discrimination that are filed with the OWCR. Enforcement of these provisions supports the OCWR's goal of promoting fully accessible facilities for congressional constituents and visitors.

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 General Counsel filing an administrative

complaint against the responsible employing office. Complaints are adjudicated by OCWR hearing officers, whose decisions may be appealed to the OCWR Board and then to the U.S. Court of Appeals for the Federal Circuit.

Conduct timely, accurate, and efficient OSH and ADA assessments

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. The OGC uses 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 FY19 the OCWR conducted inspections for the 116th Congress, focusing on the exhibit and display areas on Capitol Hill, the United States Capitol Police Detention Center, medical clinics of the Office of Attending Physician and the Library of Congress, and House Members' offices.

Requests for Inspection and Charges of Discrimination

The OGC investigates allegations of ADA public access violations raised in Requests for ADA Inspection and Charges of Discrimination.

Requests may be filed by persons who experience or observe barriers to access, including non-employees and members of the public with disabilities. When a Request is

Safety and Health—By the Numbers

Cases pending from FY18	14
New cases in FY19	12
Cases closed in FY19	14
Cases open at end of FY19	12
OSH-related inquiries that did not become cases*	10

*They did not become cases because either they were outside of the OCWR's jurisdiction or the responsible entity resolved the issue based on OCWR technical assistance.

During FY19 the OGC worked collaboratively with the Library of Congress, the United States Capitol Police, an office within the U.S. House of Representatives, and several jurisdictions within the Office of the Architect of the Capitol to investigate reported incidents and/or alleged hazards, and to address any violations that were found.**

Architect of the Capitol	10 cases
Library of Congress	2 cases
United States Capitol Police	2 cases
U.S. House of Representatives	1 case

** Some cases involved multiple employing offices.



About the safety awards:
<https://bit.ly/2YjkG9A>
OSH self-certification form for district and state offices:
<https://bit.ly/2VjUXel>



filed by a person with a disability, the OGC treats the Request as a Charge of Discrimination. In FY19 the OGC received two Requests for ADA Inspection and two Charges of Discrimination. The OGC also received nine accessibility inquiries that did not become cases, either because they were outside of the OGC's jurisdiction or not covered by the ADA as applied by the CAA, or because the OGC provided technical assistance to resolve the issue. The formal Requests and Charges concerned a wheelchair lift in a House office building, auxiliary aids and services for individuals with hearing loss at the National Book Festival, toilet accessibility in a Library of Congress building, and bathroom entrance accessibility in a House office building. The OGC opened investigations and worked collaboratively with the employing offices to address any barriers to access that were found. Two cases have been closed, one case is in pre-closing status, and one case remains open pending investigation.

Provide educational and training opportunities for stakeholders

Facilitating ADA Compliance

In keeping with the OCWR's goal of educating the legislative branch community on its rights and responsibilities under the CAA, in FY19 the OGC used educational

videos, training, and technical consults to help employing offices understand how to comply with the ADA public access provisions.

We have found that showing offices how to identify and address potential barriers before issues arise is an effective way to increase accessibility in the legislative branch. To that end, this year the OCWR produced a video on office space accessibility geared toward staffers and other employees who interact with the public in office settings. The video provides quick, easy-to-understand tips on how to make office spaces more physically accessible to visitors who use wheelchairs, walkers, and other mobility devices. The video received positive feedback from employing offices, including descriptions of some of the immediate, easy changes they made because of it.

The OGC also provided technical assistance to employing offices as they developed their own solutions to improve accessibility, including consultation with the Office of the Chief Administrative Officer of the House regarding accessible furniture configuration and fabrication, and with the Office of House Employment Counsel in its development of an accessibility and safety guidance document for employees.

We have found that showing offices how to identify and address potential barriers before issues arise is an effective way to increase accessibility in the legislative branch.

Goal V—Foster excellent labor-management relations in the legislative branch

LABOR-MANAGEMENT RELATIONS

CAA Section 220 (2 U.S.C. § 1351) makes the Federal Service Labor-Management Relations Statute applicable to covered employees and employing offices within the legislative branch and prohibits ULP by both employing offices and labor organizations. The CAA protects the rights of certain employees 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 ULP charges, facilitation of mutually agreeable resolutions between the parties, and prosecution of ULP complaints if settlements cannot be reached. The OCWR has jurisdiction over approximately 20 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

The CAA protects the rights of certain employees to form, join, or assist a labor organization without fear of penalty or reprisal.

plant laborers, photographers and videographers, and clerical and administrative workers.

Offer periodic education and training to labor and management representatives regarding employee, union, and employing office rights and responsibilities under the CAA

In FY19 the OGC organized three well-attended Union Forums, bringing together representatives of numerous legislative branch labor organizations to introduce them to the changes in the CAA Reform Act and to educate them about the OCWR and their rights under the CAA.

Encourage and facilitate cooperative relationships between labor and management by developing and implementing effective ways to engage them in voluntary dispute resolution based on common interests

Process representation, negotiability, impasse, arbitration exception, and unfair labor practice cases in a fair, impartial, and timely manner

Investigation and Prosecution of ULP

ULP complaints filed by the General Counsel are adjudicated by an OCWR hearing officer and may be appealed to the OCWR Board and then to the U.S. Court of Appeals for the Federal Circuit. Before the Federal Circuit, the OCWR Board is represented by the General Counsel. In FY19 the Federal Circuit upheld the Board's decision that the United States Capitol Police (USCP) had committed a ULP by failing to implement an arbitration award requiring reinstatement of a terminated USCP officer, back pay, costs and attorney's fees. The Federal Circuit also affirmed a decision in which the Board held that the USCP committed a ULP

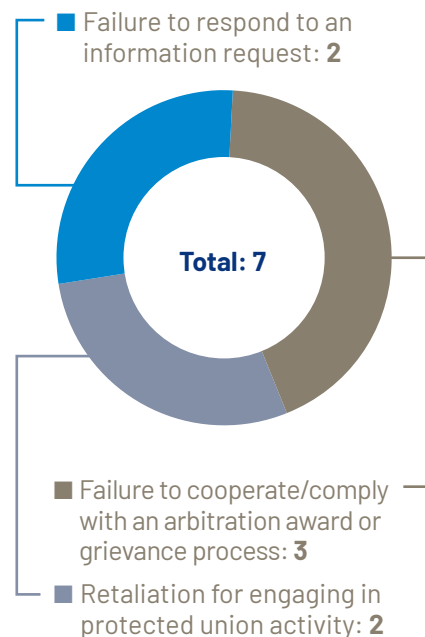
when it refused to arbitrate the termination of a USCP officer.

The OGC investigated seven new ULP charges filed in FY19. The allegations included failure to respond to an information request, failure to fully implement an arbitration award due to failure to provide back pay, failure to comply with an arbitration award, failure to provide a grievance meeting, and retaliation for engaging in protected union activity.

Resolution of Negotiability Disputes

In November 2018, the U.S. Court of Appeals for the Federal Circuit issued two decisions resolving five negotiability petitions covering a variety of bargaining disputes between the USCP and the Fraternal Order of Police, USCP Labor Committee. In the first decision, the Federal Circuit enforced the OCWR Board's decision regarding the arbitrability of police officer terminations, and in the consolidated appeal of the other four petitions, the Federal Circuit enforced five, refused to enforce six, and remanded one of the Board's holdings.

Types of ULP Charges Filed



Achieving Success

Goal VI—Develop and retain a highly motivated, talented, and satisfied workforce

As discussed at length earlier in this report, staff of the OCWR faced many challenges during the 2019 reporting period—including implementing numerous statutory changes mandated by the Reform Act under strict statutory deadlines. With a strong and shared sense of purpose to fulfill the important responsibilities that Congress delegated to it, the OCWR continued its work to ensure a legislative branch free of discrimination and harassment, safety and health hazards, accessibility barriers, and employment and labor violations.

Identify and make improvements to increase employee satisfaction and overall agency collaborative efforts and achieve a high-level retention rate

Enactment of the CAA Reform Act on December 21, 2018, required the OCWR to realign priorities and redirect resources. Commencing in January 2019, it was no longer business as usual for the Office. Staff was fully engaged in implementing critical reforms while maintaining normal operations. Position descriptions were developed or modified to align with new roles and responsibilities created by the Reform Act, and individual development plans gave way to more pressing needs. Although some personnel initiatives were temporarily suspended, staff's professionalism, common sense of mission, and mutual respect fostered novel collaboration and motivation to accomplish the monumental tasks the OCWR had been given. Timely implementation of the Reform Act gave staff an unprecedented opportunity to acquire new skills and provide needed support across its many programs.

Identify needed office upgrades that will improve efficiency while enhancing confidentiality and security

In this banner year, seamlessly delivering services to our stakeholders, adapting to new program requirements, and delivering on our mission was paramount for the

OCWR. With a focus on infrastructure and resource allocation, significant advances were made in information technology (IT) and cybersecurity. In 2019, the OCWR enhanced its physical security and integrated a secure hosted environment to ensure the protection of its mission critical information and the smooth implementation of the CAA Reform Act on June 19, 2019.

In conformance with its workplace development policy, OCWR staff received mandatory training on the provisions of the CAA, IT security, and emergency preparedness. Educational opportunities to promote growth and capacity consistent with individual development plans were provided, as resources allowed.

The Office continued to engage and educate its staff and congressional stakeholders and promote compliance with the CAA. Through its training programs, Brown Bag lunches, award ceremonies, and informational forums, the OCWR provided opportunities for professional development for its staff and the entire legislative branch community.

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Spotlight on the Clerk of the OCWR: Kimberly Altema



We sat down with Kimberly Altema, the Clerk of the Office of Congressional Workplace Rights (OCWR), to talk with her about her role and responsibilities processing claims filed with the OCWR administrative dispute resolution (ADR) process.

Q Effective June 19, 2019, the CAA Reform Act changed the way the OCWR processes claims of alleged violations of employee workplace rights. As the clerk, you are essential to implementing the new process. What are your duties, and how have they changed since the enactment of the reforms?

A The duties of the clerk include communicating with employees, representatives, attorneys, and other stakeholders to answer questions about the ADR process and provide status updates on their claims filed with the OCWR. I acknowledge submissions and validate filings, but also coordinate all facets of proceedings, including hearings. The Reform Act required the OCWR to develop and implement a new e-filing system which significantly changed how I do my job. The processing of claims is now done electronically, giving the parties secure access to view, share, upload, and download all documents in their assigned case folder. Implementing the new e-filing system under the revised

ADR process has been a challenge for some users, but I guide them through the process until they are comfortable with it.

Q What information are you responsible for processing?

A I process numerous forms and requests, such as initial and amended claim forms, requests for mediation or administrative hearings, settlement agreements, and petitions for review. I also check to see if relevant forms are fully completed, signed, and filed within the applicable deadlines. In addition to processing forms and notices, I maintain the case dockets and related records of the OCWR.

Q What types of information do you have to keep confidential in your job?

A I treat all of the information that I handle as confidential information. To ensure the confidentiality of our records, the OCWR enables employees to submit claims and other documents by using a secure online filing system that is available on our website.

Q Do you have any sorts of deadlines you have to meet?

A The CAA has many statutory deadlines to ensure that cases are processed in an efficient and a timely manner. I have numerous ways in which I keep track of the many deadlines we have. For instance, I rely heavily on our case management system for the automatic notifications regarding any upcoming deadlines, as well as my own calendar and spreadsheets that I created to keep track of deadlines. I also have a separate backup system that I use to monitor deadlines.

Q Does your position provide opportunities for you to innovate and enhance efficiency?

A I have been instrumental in enhancing our case management system to better serve our stakeholders and have assisted in developing our new e-filing system, which I frequently demonstrate for our stakeholders both one-on-one and in group training sessions.

Q How would you describe the work environment at the OCWR?

A The OCWR is a very small office with a very big mission. Fortunately, our work environment is supportive and collegial. We are transparent and open with each other as well as with those we serve. The OCWR has allowed me

to have a great work/life balance, while providing me the opportunity for training and development. The executive staff does a great job recognizing the hard work performed by staff at the OCWR. Although it can become hectic at times, we pull together and get the work done.

Q What do you like most about your work?

A The thing I like most about my work is being able to provide useful information to the parties. I am a resource for covered employees, employing offices, mediators, and hearing officers. I am happy to be the liaison among the parties, hearing officers, and mediators to ensure that things are done as effectively and efficiently as possible. Over the past four years, I've had the opportunity to build a great relationship with many of our stakeholders. The parties know that I will make myself available to them, whether it is via email or a simple telephone call. I realize that for a claimant or potential claimant, the process can seem a bit overwhelming. Answering questions and providing guidance is incredibly rewarding to me. In all, it is always satisfying to me when people thank me for my help and tell me that it was a pleasure to work with me. The feeling is mutual and it makes my job very gratifying.

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Q What do you consider to be the most important qualities for being a successful clerk?

A My work primarily involves information management and communication. It is important that I be a good listener—and planner—with strong organizational skills. Of course, it is also essential that I be flexible, attentive to detail, and maintain objectivity and confidentiality. I truly appreciate the importance of the work that I do and the supportive environment in which I work at the OCWR.

Meet the Confidential Advisor: Sargam Hans



The CAA Reform Act created the position of confidential advisor to provide covered employees with information about their rights and responsibilities and to assist in filing claims. We spoke with Sargam Hans, the OCWR's confidential advisor, about her unique role and responsibilities.

Q As confidential advisor, you have taken on a brand new role at the OCWR. What has prepared you for this unique position?

A I am an attorney with experience in employment law. I have been interested in employment law since working for a law firm in Hampton Roads, Virginia. Before that, I studied and worked abroad. I believe that my cultural background and international experience enable me to better connect with and serve our diverse community.

Q Do most claims at the OCWR begin with requests for advice and information?

A Yes, that is correct. Most employees who contact the OCWR are facing a situation that they believe may present a violation of the Congressional Accountability Act (CAA). They want to understand what the administrative dispute resolution (ADR) process looks like, and what their rights and responsibilities are. Many employees who believe they have suffered a violation of their

rights want to learn how the law may apply to their situation.

Q As a confidential advisor, do you represent employees during OCWR proceedings?

A No, I cannot serve as a designated representative of employees. I can consult with and advise them before they file a claim. And that advice gives a neutral, independent perspective to employees. It helps them see the facts of their allegations against the backdrop of the legal provisions and enables them to make an informed decision about whether or not to file a claim.

After employees file a claim, my advisory role is restricted to consulting with them and helping them if they wish to amend their claim. A claimant is entitled to amend his or her claim once, within 15 days of filing the initial claim. If employees have any questions about the procedures after they file a claim, I can also talk to them about that. But I cannot advise them about their strategy or their preferred course of action after the claim is filed.

Q Now that the OCWR, through your services, may be involved in the process of drafting claims, can you describe how the process works?

A The process of filing a claim usually begins with a telephone call or a meeting with the employee. Some employees want to understand the process and discuss their issues before making a decision of whether to file a claim. Others have already made that decision before they contact the OCWR.

We discuss the situation in relation to the relevant provisions of the CAA. I talk about the legal definitions and go through each element step-by-step to enable the employee to assess whether the events are sufficient to state a legal violation. My goal is to enable an employee to better understand the relevant laws and decide whether they want to take their claim forward.

For example, while discussing discrimination and disparate treatment, I inform them that the law requires that they show that they were treated differently as compared to other employees who were similarly situated, and that the difference needs to be based on a protected characteristic of race, color, sex, religion, national origin, age, or disability. Another area that needs to be explored properly is retaliation because the legal definition of that term is not always what employees have in mind. After having these discussions, the employee may or may not request additional assistance in the actual drafting of the claim. Either way, the employee ultimately is the one who files the claim after signing it. I cannot file on behalf of the employee, even if I have drafted their claim.

Q How is it helpful to have a confidential advisor explain the OCWR process to the employees?

A Navigating a legal system can be very daunting. The advisor helps provide a clear picture to employees about what to expect during the ADR process, and equips them to handle the process. Getting the right information and advice at the very inception goes a long way in helping employees make an informed decision about filing a claim and investing their time and resources in a legal proceeding.

When talking about the ADR process, I explain to employees how the administrative process differs from a court proceeding. I also suggest mediation as an alternative way to resolve disputes. Mediation is voluntary under the new ADR process and both parties must agree to engage in mediation. Mediation enables the parties to discuss the issues that gave rise to the claim and provides an opportunity for the parties to develop a mutually agreeable solution to settle the claim. We also talk about the hearing process and what it entails.

It is important to help employees understand what to expect once they pass the preliminary review stage and request a hearing. Since the “litigation” phase of a case starts once a hearing is requested, I explain to employees—in some detail at least—what the legal tool of “discovery” means, what happens at a prehearing conference, and what a hearing will look like. Simply saying it is a legal proceeding does not always equip employees for what is ahead of them.

Q Do you also talk about the remedies an employee is seeking?

A Yes, I do. Since the claim form requires the claimant to state the relief or outcome he or she is seeking, I encourage employees to think about how they would like the matter resolved. By doing so, the focus shifts from the problem to the solution. This often helps employees understand the true nature of the problem and determine whether

filing a claim is the appropriate solution under the circumstances.

For many violations, the law states that employees may ask for a legal or an equitable remedy. For most employees, this sounds vague. So, by giving them possible examples of available remedies, I might be able to guide them and help them figure out what they really want. However, I do not suggest anything in particular or decide for the employee what specific relief they should ask for in their case. Together we are often able to identify potential solutions to matters without the employee having to file a claim.

Q Would you like to share any general observations you have about the new process?

A Certainly! It has been an exciting journey for me as the confidential advisor. I feel one of the biggest advantages of the new process is that it enables employees to explore and make informed decisions on whether to move forward with a claim.

As a neutral, independent, and nonpartisan office, we neither encourage nor discourage the filing of claims. And as the confidential advisor, I can only help employees better understand the ADR process and explain to them what the law says. Ultimately, the decision to file or not is one that the employee makes.

I have had some employees tell me that they do not want to file a claim because of the fear of retaliation, and I inform them that the CAA also protects them against retaliation. Congress’ intent in creating the new confidential advisor role was positive—to help employees navigate the legal process and give them some initial direction and assistance to file a claim if they choose to do so. I help employees evaluate the facts, weigh their options, and explain the process before they make any decision. Based on the positive feedback we have been receiving, the process is working.



Acronyms

ADA: Americans with Disabilities Act

ADR: Administrative Dispute Resolution

AOC: Architect of the Capitol

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

GAO: Government Accountability Office

GINA: Genetic Information Nondiscrimination Act

LOC: Library of Congress

OCWR: Office of Congressional Workplace Rights

OGC: Office of the General Counsel

OOC: Office of Compliance

OSH: Occupational Safety and Health

OSHAct: Occupational Safety and Health Act

ULP: Unfair Labor Practices

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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