+ OFFICE OF COMPLIANCE + FY 2013 ANNUAL REPORT

STATE OF THE CONGRESSIONAL WORKPLACE

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

OFFICE OF COMPLIANCE
EST. 1995
UNITED STATES CONGRESS

"We will take a big step forward toward restoring the confidence in this institution if we make ourselves subject to the same legal framework that we impose upon every other American. Americans want to know that we are not above the law. It's more than just a question of right and wrong. It's a question of basic fairness and decency . . ." + **Senator Barbara Mikulski (MD), June 29, 1994, from the legislative history of the Congressional Accountability Act of 1995**

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STATEMENT FROM THE CHAIR OF THE BOARD OF DIRECTORS

The Board of Directors of the Office of Compliance (OOC) is pleased to present OOC's Annual Report for Fiscal Year 2013. FY 2013 has been a challenging and exciting year for the OOC. At the end of this year, we made several new appointments to our executive staff including two new Executive Deputy Directors and a new General Counsel. We look forward to working with our new and existing staff members in 2014–2015 as we seek to provide the most effective and optimal services and workplace protections to the Congressional community.

The OOC is a small agency with a large and important statutory mission. With only 22 full-time equivalent employees and several contractors, the OOC ensures workplace protections for some 30,000 Legislative Branch employees here on Capitol Hill and in district offices throughout the United States. The work we do on behalf of the Legislative Branch is equivalent to that performed by several different agencies and offices within the Executive Branch: the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, and the Occupational Safety and Health Administration, to name a few.

During FY 2013, the OOC continued its risk-based safety and health inspections of the legislative campus, provided educational materials and training in cost-efficient and effective ways, and ensured unfettered access to the agency's confidential dispute resolution program. Although the number of workplaces to be inspected continued to increase and employees continued to seek OOC's services to resolve workplace issues, the resources provided to the agency dwindled. However, the quality of services provided by OOC remained excellent, largely due to the skill level, commitment, and professionalism of OOC staff.

The OOC's success during FY 2013 was also greatly assisted by the continued support it received from the Congressional community. Whether it was monthly meetings with its oversight committees, staff briefings on appropriations issues, or meetings with covered employers and employees to address safety and health hazards, the OOC's efforts to advance workplace rights, safety, health, and public access were furthered by the cooperation shown by interested stakeholders. In particular, during FY 2013, the OOC collaborated with both the Committee on House Administration and the Senate Committee on Rules and Administration to increase the use of electronic mail systems for both houses in order to deliver educational information to Congressional staffs. As this collaboration continues, we hope to realize both a more effective means of communication as well as a more cost effective one.

FY 2013 was a difficult year for the OOC in the area of Occupational Safety and Health (OSH) inspections. The sequester severely limited our ability to hire and retain inspectors, which slowed the rate of our inspections across the campus. Even with the move to a risk-based approach to OSH inspections, where we focused almost exclusively on high-risk, high-hazard areas, we continued to struggle to keep pace with the demanding workload. Already in the new year, we have begun to catch up with the inspections and we look forward to rebuilding our capacity for a more timely and effective inspections process.

Another notable achievement in our efforts to enforce workplace protections is our cross-training of our safety and health inspectors to conduct Americans with Disabilities Act (ADA) compliance inspections. This novel approach to workplace inspections will lead to great efficiencies and a more comprehensive inspection process as our cross-trained inspectors seek to ensure both workplace safety and disability public access to Capitol buildings.

In FY 2013, OOC continued its efforts to provide more effective tools and procedures to identify and efficiently resolve workplace disputes. We updated the OOC website to provide easier access to information about the CAA and to facilitate access to the confidential dispute resolution system we provide to the Congressional community. As part of our fiscal streamlining, we relied heavily on the services of our skilled in-house mediator, who achieved an exceptional success rate in resolving workplace disputes prior to formal adjudicative proceedings. The confidential ADR process offered by the OOC remains a cornerstone of our mission to safeguard workplace rights.

The Board of Directors of the Office of Compliance continues to work with Congress to strengthen the rights and responsibilities provided in the CAA. Each Congress and as required by the CAA, the Board provides its recommendations to Congress on adding to the CAA, as appropriate, those laws that do not currently apply to the Legislative Branch but do apply to the private sector and the Executive Branch of the Federal government. At the time of the writing of this annual report, the Board of Directors continues to recommend that Congress apply to Legislative Branch employees: protections against retaliation for whistleblowers; posting of rights under the CAA; mandatory training on the rights under the CAA; more effective protection against retaliation for employees who report safety violations; and the authority of the General Counsel to issue investigatory subpoenas.

The Board is very proud of the accomplishments of the Office for FY 2013 and looks forward to enhancing these accomplishments in FY 2014.

Sincerely,

Barbara L. Camens
Chair, Board of Directors

STATEMENT FROM THE EXECUTIVE DIRECTOR

I am pleased to report on the Office of Compliance's (OOC) accomplishments for fiscal year 2013. The OOC has a broad mandate—advancing workplace rights, safety, health, and public access in the Legislative Branch of the Federal government—and all with minimal resources. FY 2013 was a challenging year for the OOC, as we continued to deal with limited funds under the sequester and sought out ways to juggle funding shortages while attempting to meet the growing need for services across the Capitol Campus. As an organization of only 22 full-time equivalent employees, we could not have accomplished our mission this year without the flexibility and dedication of our staff.

The OOC continued to prioritize its various missions and revisit operational strategies based on the reduced financial resources provided to us. We further streamlined our internal processes, restructured programs, and negotiated contracts in an effort to increase efficiencies and reduce costs. In addition, the agency continued to modify and improve upon its website to increase employee access to the dispute resolution services provided to the Congressional community. With these improvements, it will be easier for employees and employers to find the tools to help them address workplace issues and resolve matters at the earliest possible point.

As a part of streamlining the services provided by the agency, we relied much more on the services of our in-house mediator in lieu of hiring contract mediators. While this service did save money it put significant strains on our alternative dispute resolution staff. Despite these strains our in-house mediations resulted in a success rate well above many other forums which use compelled mediations. In other cost cutting measures we cross-trained many of our staff. For instance, our Chief Finance Officer serves as our contracts and human resource manager and our accounting staff assistant not only performs various tasks related to personnel matters, but serves as our accounting technician, as well.

Last year, the OOC worked with the Committee on House Administration to e-mail House employees the educational materials required by the Congressional Accountability Act. This year, the OOC began discussions with the Senate Committee on Rules and Administration to gain access to Senate staff emails in order to deliver these educational materials. This includes a recent edition of educational bulletin Compliance@Work, covering recent changes to the Family and Medical Leave Act (FMLA). This collaboration in the coming years will provide a more cost effective and streamlined process for the OOC to deliver on its educational mandate.

This year the OOC continued to develop its risk-based inspection which uses a more cost effective regimen. The OOC's General Counsel inspected high hazard areas to determine compliance with relevant safety and health standards. This type of inspection is critical to ensuring the safety and health of Congressional employees, as it focuses on reducing the risk of injuries while employees perform potentially dangerous operations. In the long run, conducting risk-based inspections will help improve the safety and health programs of employers covered by the Congressional Accountability Act.

In FY 2013 the OOC continued to be one of the most cost-effective investments that Congress makes in itself and its employees. We continue to seek out ways to work with our stakeholders, our oversight committees, appropriations and leadership to build a workplace that is a model for the Nation.

Sincerely,

Barbara J. Sapin, Executive Director

THE CONGRESSIONAL WORKPLACE AND THE CONGRESSIONAL ACCOUNTABILITY ACT

The Congressional Accountability Act of 1995 (CAA) applies workplace rights, safety, health, and public access laws to Congress and its agencies and establishes the legal process for resolving violations of the CAA through the Office of Compliance (OOC). The CAA protects over 30,000 employees of the Legislative Branch nationwide (including state and district offices). The CAA also provides protections and legal rights for members of the public with disabilities who seek access to public accommodations and services in the Legislative Branch.

CONGRESSIONAL WORKPLACES COVERED BY THE CAA

- HOUSE OF REPRESENTATIVES
- SENATE
- CONGRESSIONAL BUDGET OFFICE
- GOVERNMENT ACCOUNTABILITY OFFICE*
- LIBRARY OF CONGRESS*
- OFFICE OF THE ARCHITECT OF THE CAPITOL
- OFFICE OF THE ATTENDING PHYSICIAN
- OFFICE OF COMPLIANCE
- OFFICE OF CONGRESSIONAL ACCESSIBILITY SERVICES
- UNITED STATES CAPITOL POLICE

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

+ LAWS APPLIED TO THE CONGRESSIONAL WORKPLACE BY THE CAA:

Section 201 of the CAA	**HARASSMENT AND DISCRIMINATION PROHIBITED**	Prohibits harassment and discrimination in personnel actions based on race, national origin, color, sex, religion, age, or disability. Laws applied: Title VII of the Civil Rights Act, Age Discrimination in Employment Act (ADEA), Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act (ADA)
Section 202 of the CAA	**FAMILY AND MEDICAL LEAVE**	Provides leave rights and protections for certain family and medical reasons. Law applied: Family and Medical Leave Act (FMLA)
Section 203 of the CAA	**FAIR LABOR STANDARDS**	Requires the payment of minimum wage and overtime compensation to nonexempt employees, restricts child labor, and prohibits sex discrimination in wages. Law applied: Fair Labor Standards Act (FLSA)
Section 204 of the CAA	**POLYGRAPH TESTING PROTECTIONS**	With some exceptions, prohibits employing offices from: requiring or requesting that employees take lie detector tests; 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. Law applied: Employee Polygraph Protection Act (EPPA)
Section 205 of the CAA	**NOTIFICATION OF OFFICE CLOSING OR MASS LAYOFFS**	Under certain circumstances, requires that employees be notified of an office closing or of a mass layoff at least sixty days in advance of the event. Law applied: Worker Adjustment and Retraining Notification Act (WARN)
Section 206 of the CAA	**UNIFORMED SERVICES RIGHTS AND PROTECTIONS**	Protects employees who are performing service in the uniformed services from discrimination and provides certain benefits and reemployment rights. Law applied: Uniformed Services Employment and Reemployment Rights Act (USERRA)
Section 207 of the CAA	**PROHIBITION OF REPRISAL OR INTIMIDATION FOR EXERCISING WORKPLACE RIGHTS**	Prohibits employing offices from intimidating, retaliating against, or discriminating against employees who exercise their rights under the CAA.
Section 210 of the CAA	**ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS**	Protects members of the public who are qualified individuals with disabilities from discrimination with regard to access to public services, programs, activities, or places of public accommodation in Legislative Branch agencies. Law applied: Titles II and III of the Americans with Disabilities Act (ADA)
Section 215 of the CAA	**HAZARD-FREE WORKPLACES**	Requires that all workplaces be free of recognized hazards that might cause death or serious injury to employees. Law applied: Occupational Safety and Health Act (OSHAct)
Section 220 of the CAA	**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. Law applied: chapter 71 of Title 5, U.S. Code.
Genetic Information Nondiscrimination Act (GINA)	**GENETIC INFORMATION NONDISCRIMINATION & PRIVACY**	Prohibits the use of an employee's genetic information as a basis for personnel actions.
Veterans' Employment Opportunities Act (VEOA)	**VETERANS' EMPLOYMENT OPPORTUNITIES**	Gives certain veterans enhanced access to job opportunities and establishes a redress system for preference eligible veterans in the event that their veterans' preference rights are violated.

OVERVIEW

ANNUAL REPORT

Congress passed the Congressional Accountability Act of 1995 (CAA) with overwhelming bipartisan support. The CAA applies a number of private sector and Executive Branch workplace rights, occupational safety and health, accessibility, and fair labor standards statutes to Congress and its instrumentalities. Prior to the passage of the CAA, Congress had exempted itself from the reach of these laws, affording employees no statutory remedy for any violation.

In an effort to bring accountability to Congress and its agencies, and to provide an avenue of redress for employees, the CAA established the Office of Compliance (OOC) to administer a dispute resolution program for the resolution of workplace rights claims brought by Congressional employees; to carry out an education program to inform Congressional Members, employing offices, and Congressional employees about their rights and obligations under the CAA; to inspect Congressional facilities for compliance with safety and health and accessibility laws; and to promulgate regulations and make recommendations for changes to the CAA that would apply to Congress the same workplace laws that apply to private and public employers.

In passing the CAA, Congress intended that there be an ongoing, vigilant review of the workplace laws that apply to Congress and a review of whether Congressional employees are accessing the services of the OOC and able to make claims against their employers in a similar manner as Federal Executive Branch and private sector employees.

This Annual Report provides an analysis of the state of workplace rights, safety, health, and accessibility in Congress during FY 2013 (October 1, 2012–September 30, 2013).

As required by Section 301(h) of the CAA, this Annual Report provides FY 2013 statistics on the use of the OOC by Congressional employees. This includes statistics about the types of claims being made against Congressional employing offices.

Other periodic reports that are provided to Congress, as required under the CAA, are summarized in this Annual Report and are described below:

- Section 215(e) of the CAA requires the OOC to inspect Legislative Branch facilities for compliance with occupational safety and health standards under the Occupational Safety and Health Act (OSHAct), at least once each Congress and report on those findings. This Annual Report provides an overview of the risk-based inspections conducted during the 112th Congress.
- Section 210(f) of the CAA requires that the OOC inspect Legislative Branch facilities for compliance with the access to public services and accommodations requirements of the Americans with Disabilities Act (ADA), every Congress, and report on those findings.
- Section 102(b) of the CAA requires that the Board of Directors review provisions of Federal law relating to the terms and conditions of employment and access to public services and accommodations, and make recommendations on which provisions should be made applicable to the Legislative Branch.

This Annual Report references the last 102(b) report—titled "Recommendations for Improvements to the Congressional Accountability Act"—issued to Congress in December 2012, which made recommendations to the 113th Congress for changes to the CAA to advance Congressional workplace rights. In this report, we highlight those sections of the 102(b) report that continue to be priorities.

All of our statutory reports are available on the OOC's website at **www.compliance.gov**.

WHAT WE DO

"I cannot tell you how many times I have had business men and women, men and women in every walk of life complain that Congress passes laws and then simply exempts itself… I want to go home and tell those constituents that have talked to me and to all of you that we have answered their plea. I want to tell them that we meet the same requirements that they do, that we follow the same laws that we ask them to, form OSHA to Fair Labor Standards. I want to tell them that our employees have the same protections theirs do . . ." + **Representative Steny Hoyer (MD), January 4, 1995, from the legislative history of the Congressional Accountability Act of 1995.**

SERVICES WE PROVIDE TO CONGRESS, CONGRESSIONAL EMPLOYEES, AND THE PUBLIC

In 1995, Congress passed the Congressional Accountability Act (CAA), the purpose of which was to require Congress and its instrumentalities to follow many of the same employment, labor, accessibility, safety, and health laws that Congress enacted to apply to private business and the Federal Executive Branch. The CAA was also to provide an avenue of legal recourse for those employees who allege violations of workplace rights. Under the CAA, an employee may seek a number of legal remedies for violations of the law including back pay awards, damages and the reimbursement of attorney's fees if the employee prevails in his or her case.

Until the CAA's passage, Congress had exempted itself from most of these laws, but Congressional Members expressed dissatisfaction with such exemptions. Members wanted Congress to be held accountable to the same employment, accessibility, and safety laws that Congress enacted to apply to other employers.

Many Congressional Members also felt that the employment enforcement procedures and dispute resolution system that had been in place prior to the passage of the CAA were not effective in protecting and advancing the rights of Congressional employees. Under the CAA, Congress established the Office of Compliance (OOC) to implement an effective dispute resolution system, enforce certain provisions of the CAA, and educate Congress, its employing offices, and Congressional employees of their obligations and rights under the CAA.

The OOC is an independent, non-partisan office that is subject to oversight by the Senate Committee on Rules and Administration, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on House Administration.

RESOLVING DISCRIMINATION, HARASSMENT, AND OTHER WORKPLACE RIGHTS DISPUTES IN THE LEGISLATIVE BRANCH

The CAA provides for mandatory alternative dispute resolution (ADR), which includes confidential counseling and mediation for the settling of disputes under most workplace rights laws as described on page 18 of this Annual Report.

The CAA imposes a 180 day time limit for an employee, applicant, or former employee to initiate a workplace rights violation claim. After completing confidential counseling, the employee may pursue his or her claim through confidential mediation with the employing office. If the parties involved are not able to resolve their dispute through mediation, an employee may either pursue an administrative hearing with the OOC, or file a civil suit in Federal district court.

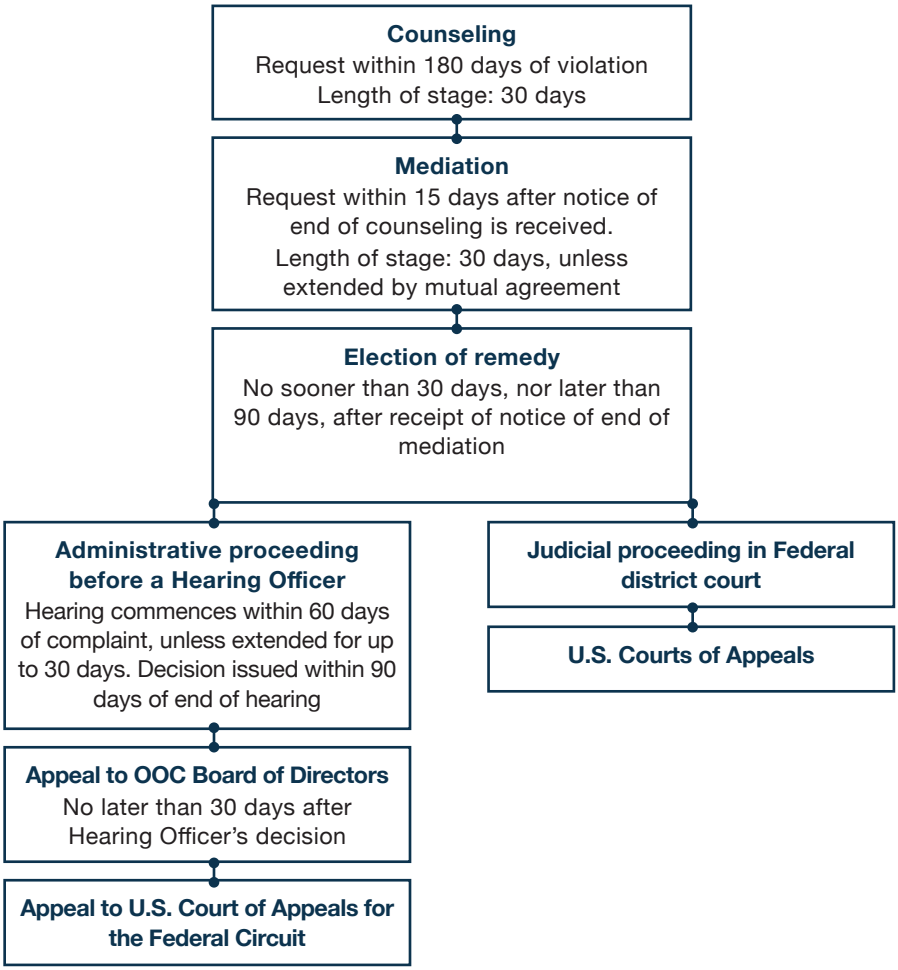
After an administrative hearing, if either the employee or the employing office is dissatisfied with the final decision of the hearing officer, a request may be made to have the hearing officer's decision reviewed by the Board of Directors of the OOC. If the employee or the employing office is dissatisfied with the Board of Directors' ruling, the decision may be appealed to the U.S. Court of Appeals for the Federal Circuit for further review. If the employee decides to file a civil suit, in Federal district court, an appeal of that decisions will proceed under the rules of the appropriate U.S. Court of Appeals.

Depending on the law and facts in a case, a hearing officer, the OOC Board of Directors, or Federal court may order monetary awards and other appropriate remedies for the prevailing party in the case, such as reinstatement, promotion, or back pay. Attorney's fees, and other costs may also be awarded. No civil penalties or punitive damages can be awarded for any claim under the CAA.

The CAA and its ADR process apply to employees of the House of Representatives and the Senate; the Congressional Budget Office; the Office of the Architect of the Capitol; the Office of the Attending Physician; the Office of Compliance; the Office of Congressional Accessibility Services; and the United States Capitol Police. In certain instances, applicants and former employees may also be protected. The OOC will provide services locally to process claims brought by district or state Member office staff, or will service the needs of the employee through its Washington, D.C. office.

At any time during the ADR Process, an employee may designate (at the option and expense of the employee) a representative, such as an attorney, to represent him or her in the matter.

+ Dispute Resolution Process for Most Types of Claims

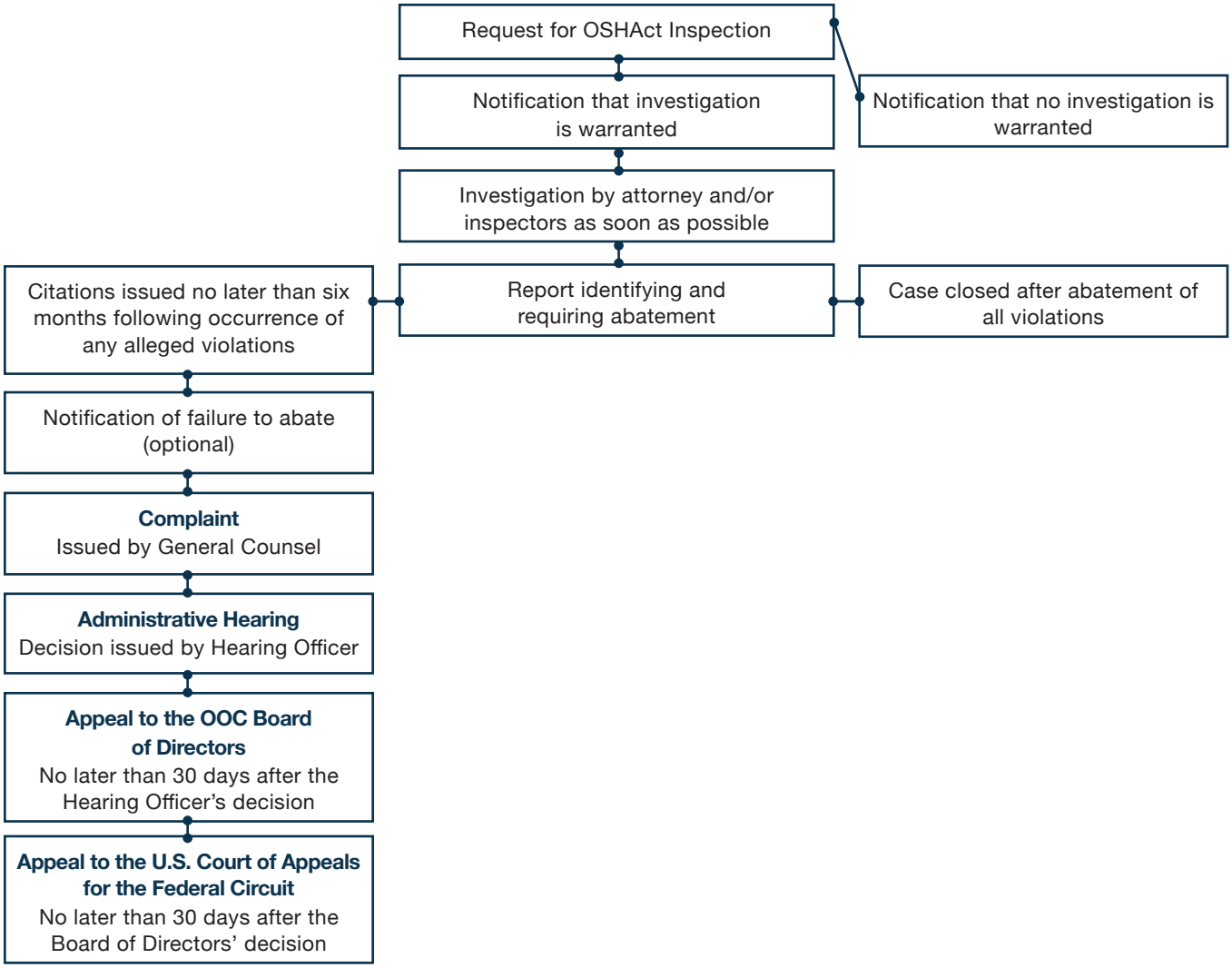


ENSURING A SAFE & HEALTHY CONGRESSIONAL WORKPLACE

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

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

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

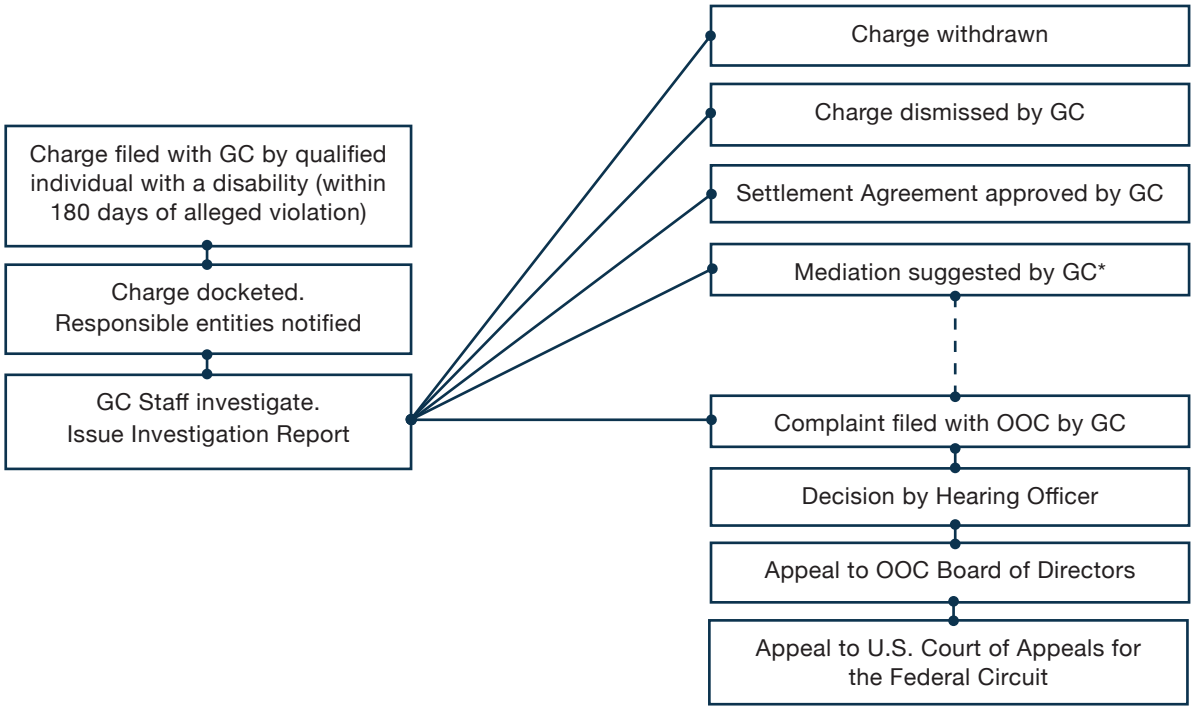


ENSURING ACCESS TO CONGRESSIONAL SERVICES AND ACCOMMODATIONS FOR MEMBERS OF THE PUBLIC WITH DISABILITIES

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

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

+ Dispute Resolution Process for Alleged Violations of ADA Accessibility Laws



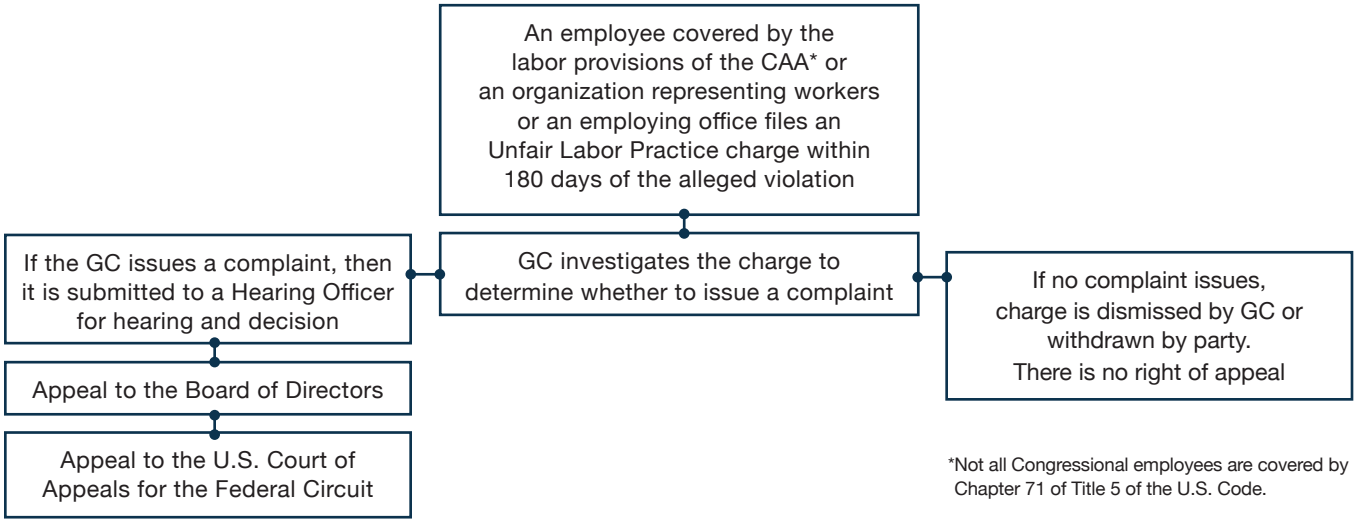
*Mediation is not mandatory

CONDUCTING REPRESENTATION ELECTIONS AND RESOLVING UNFAIR LABOR PRACTICE DISPUTES

The CAA grants certain Legislative Branch employees the right to join a labor organization for the purpose of collective bargaining under Chapter 71 of Title 5. The CAA protects these employees' rights to form, join, or assist a labor organization without fear of penalty or reprisal. The rights of employees who choose not to join or participate in a labor organization are also protected. Certain procedures must be followed to be represented by a labor organization. The OOC works with the parties to process representation petitions and elections.

The Board of Directors of the OOC has the authority to issue final decisions on union representation and election issues, questions of arbitrability, and exceptions to arbitrators' awards. The General Counsel is responsible for investigating allegations of unfair labor practices and prosecuting complaints of unfair labor practices before a hearing officer and the Board.

+ Administrative Process for Alleged Violations of Federal Labor Laws



*Not all Congressional employees are covered by Chapter 71 of Title 5 of the U.S. Code.

EDUCATING TO PREVENT VIOLATIONS OF THE CAA AND PROVIDING INFORMATION ABOUT THE STATE OF THE CONGRESSIONAL WORKPLACE

Workplace research in both the public and private sectors consistently finds that a comprehensive anti-discrimination/harassment training program is the single most effective way to change both behavior and attitudes of employees within an organization. These studies show that training not only saves organizations time and money in litigation and settlement costs for workplace violations, but also significantly curbs the "hidden" costs of workplace violations. These "hidden" costs occur when an employee encounters sexual harassment or some other form of discrimination but does not complain to his or her supervisor or does not engage in a formal complaint process. This may result in excessive absenteeism by the aggrieved employee, lowered productivity, stress related illnesses and most prominently high turnover costs for the organization.

These hidden costs are made worse by the fact that most employees who are harassed do not speak up. Studies in the Federal Executive branch and of various industries have consistently found that less than half of all employees who encounter harassment or discrimination actually report it to their supervisors. Of the majority that did not report this conduct, a significant number say that they are worried about the consequences of making a report and others believe that if they report it, their complaints will not be handled fairly.

As a result of these workplace realities, in FY 2013, the OOC conducted an analysis of the potential savings that came from mandatory workplace rights training in the Executive Branch under the "Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002," commonly known as the No FEAR Act. The OOC found that although there was a brief spike in litigation of discrimination claims during the initial start-up of mandatory training, this was followed by a dramatic decline in litigation overall. As mandatory training was implemented and employees learned about their rights and managers learned how to prevent workplace discrimination and harassment, the number of complaints went down, as did the findings of actual violations. This indicates that as managers were trained in workplace laws they were better able to reduce the liability of the organization.

The Office of Compliance, under the CAA, has a statutory mandate to "carry out a program of education for Members of Congress and other employing authorities of the Legislative Branch" that is similar to the type of impactful training mentioned above. While the OOC continues to follow this mandate, there is no reciprocal requirement on the part of Legislative Branch employees to take this training. As a result, the OOC believes that there is a missed opportunity to create a model workplace on the Hill by educating Legislative Branch employees on their rights and responsibilities under the CAA and by providing management with one of the most cost-effective measures to preventing workplace discrimination.

The OOC in FY 2013 developed a comprehensive education program that included:

- Developing and distributing written educational materials and publications;
- Maintaining and improving the existing website for greater dissemination of information for employees and managers;
- Conducting briefings, workshops, and conferences about the law and the services the OOC offers to our stakeholders and their employees;
- Answering questions from Congressional Members, Legislative Branch employing offices, and Congressional employees;
- Providing training to Congressional Members, instrumentalities in the Legislative Branch, and Congressional employees in a large group settings or, upon request, in smaller settings tailored toward particular offices; and
- Engaging in face-to-face meetings with Congressional Members, employing offices, and Congressional employees to offer our employment and occupational safety and health law expertise.

Every year, the OOC provides statistical data about the workplace rights claims made by Congressional employees. Under Section 301(h) of the CAA, Congress requires the OOC to track and report this information about the use of the OOC by employees and employing offices of the Legislative Branch. The OOC publishes these statistics annually in this "State of the Congressional Workplace"; statistics for FY 2013 can be found in this annual report.

All of the OOC's reports are available at **www.compliance.gov**.

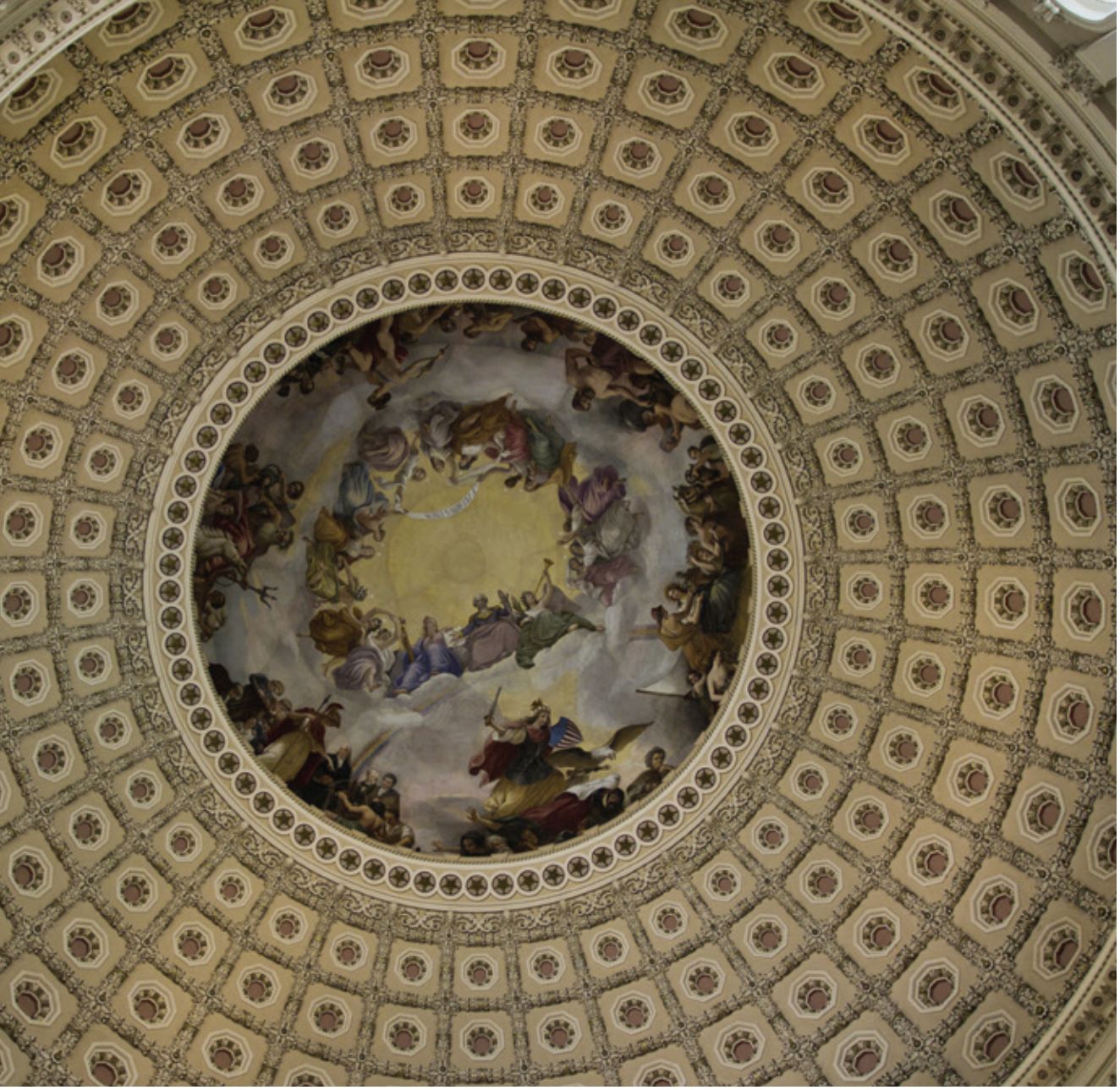
STATE OF WORKPLACE RIGHTS

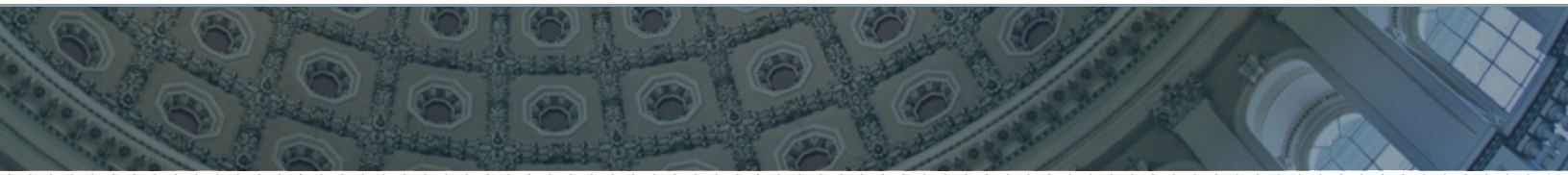
Congress and its agencies employ roughly 30,000 employees nationwide, many of whom live in Maryland, Virginia, and the District of Columbia. Congressional employees who have claims of discrimination, harassment, and other violations of workplace rights laws must assert their claims through the Office of Compliance's (OOC) Dispute Resolution process. The OOC provides dispute resolution services nationwide regardless of an employee's geographic location.

The "State of Workplace Rights" provides statistical data to Congress on the use of the OOC by Congressional employees. Section 301(h) of the Congressional Accountability Act (CAA) requires that such statistics be published annually.

SECTION HIGHLIGHTS

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





+ Congress is not covered by certain workplace rights laws required for U.S. businesses and the Federal Executive Branch, such as mandatory notice-posting of workplace rights, mandatory anti-discrimination training, and whistleblower protections for employees who report waste, fraud, and abuse

I. WHAT THE LAW REQUIRES:

The CAA requires the OOC to provide statistical data to Congress about the number of employees asserting their rights under the OOC's Alternative Dispute Resolution (ADR) program and the reasons for their claims. Congress wants to know how Congressional employees are using the OOC to seek legal recourse for alleged discrimination and harassment claims, as well as other types of claims under the CAA, such as family and medical leave and/or retaliation. To this end, the CAA requires that the OOC compile and publish statistics on the use of the OOC by covered employees, including "the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office...and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint." See Section 301(h)(3). A full discussion of the FY 2013 statistics is provided on the pages that follow.

II. ACHIEVEMENTS & COMPLIANCE ASSESSMENT:

During the hearings that led to the passage of the CAA, some Congressional Members voiced concern that while the passage of workplace rights laws to protect Congressional employees is important, the CAA means little if employees do not use the available resources to assert their rights or if they do not feel comfortable asking about their rights. As a result, Section 301(h) of the CAA requires the OOC to compile and publish statistics on the use of the OOC by Congressional employees so that Congress can assess whether they are getting the information they need. In this section, the OOC provides information about the use of the OOC by Congressional employees to enforce their workplace rights under the CAA.

The statistics in this section relate to claims brought by Congressional employees under the OOC's dispute resolution process (see page 10 for more information and a diagram of how the process works). Covered employees under the CAA include current and former employees, as well as applicants.

The CAA mandates a dispute resolution process of confidential counseling and mediation for the prompt resolution of disputes. If the dispute is not resolved during counseling and mediation, the employee may either pursue his or her claim in a confidential administrative hearing before a hearing officer with the OOC, or file suit in Federal district court, which is a public forum.

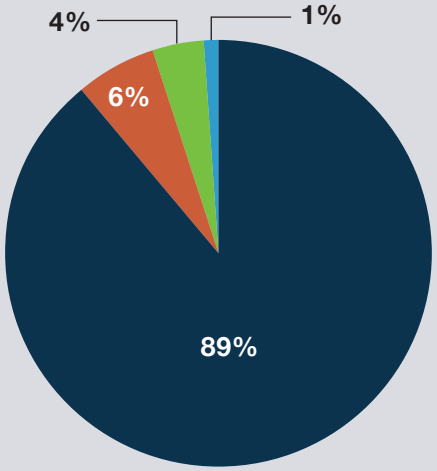
Final decisions of hearing officers may be appealed to the Board of Directors of the OOC. Upon review, the Board issues a written decision of its analysis and evaluation of the facts and issues. A party dissatisfied with the decision of the Board may file a petition for review of the Board's decision with the U.S. Court of Appeals for the Federal Circuit. If an employee filed suit in Federal district court instead of filing an administrative complaint with the OOC, appeals of those decisions are heard by the appropriate Federal Circuit Court of Appeals.

GENERAL INFORMATION REQUESTS IN FY 2013

Congressional employees, employing offices, and the public may contact the OOC in person or by telephone to request information on the procedures of the OOC and to learn about the rights, protections, and responsibilities granted by the CAA. Although general inquiries do not initiate the formal dispute process, they are nonetheless kept confidential by the OOC.

Providing information to a covered employee is often the first opportunity the OOC has to directly address a particular issue. An OOC counselor assists individuals in understanding how the CAA may apply to the facts of their dispute, and suggests ways their claims may be addressed and resolved either through the dispute resolution process or by addressing their concerns directly with their employer without ever having to file a claim with the OOC.

+ Summary of General Information Requests by Group



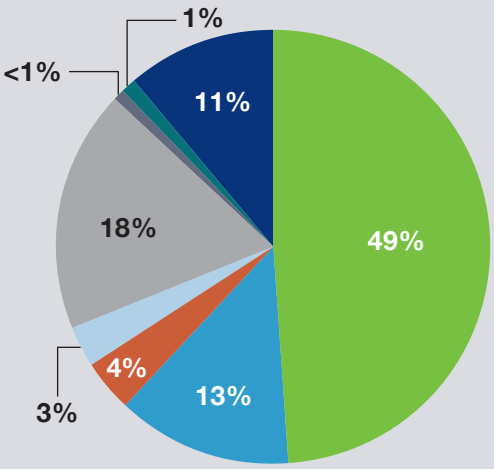
- **214** • Employees
- **13** • Public
- **11** • Employing Office
- **3** • Union

241: Total Contacts

During FY 2013, OOC counselors received 241 general inquiries for information, mostly from covered employees, but also from members of the public, employing offices, and labor organizations.

GENERAL INFORMATION REQUESTS IN FY 2013 (CONTINUED)

+ General Information Requests by Section of Workplace Rights Laws under the CAA



- **138** • Section 201—Title VII of the Civil Rights Act, Age Discrimination in Employment Act, Rehabilitation Act, Americans with Disabilities Act
- **36** • Section 202—Family and Medical Leave Act
- **10** • Section 203—Fair Labor Standards Act
- **8** • Section 206—Uniformed Services Employment and Reemployment Rights Act
- **51** • Section 207—Prohibition of Intimidation or Reprisal (Retaliation)
- **2** • Section 215—Occupational Safety and Health Act of 1970
- **3** • Section 220—Federal Service Labor-Management Relations
- **32** • CAA Generally

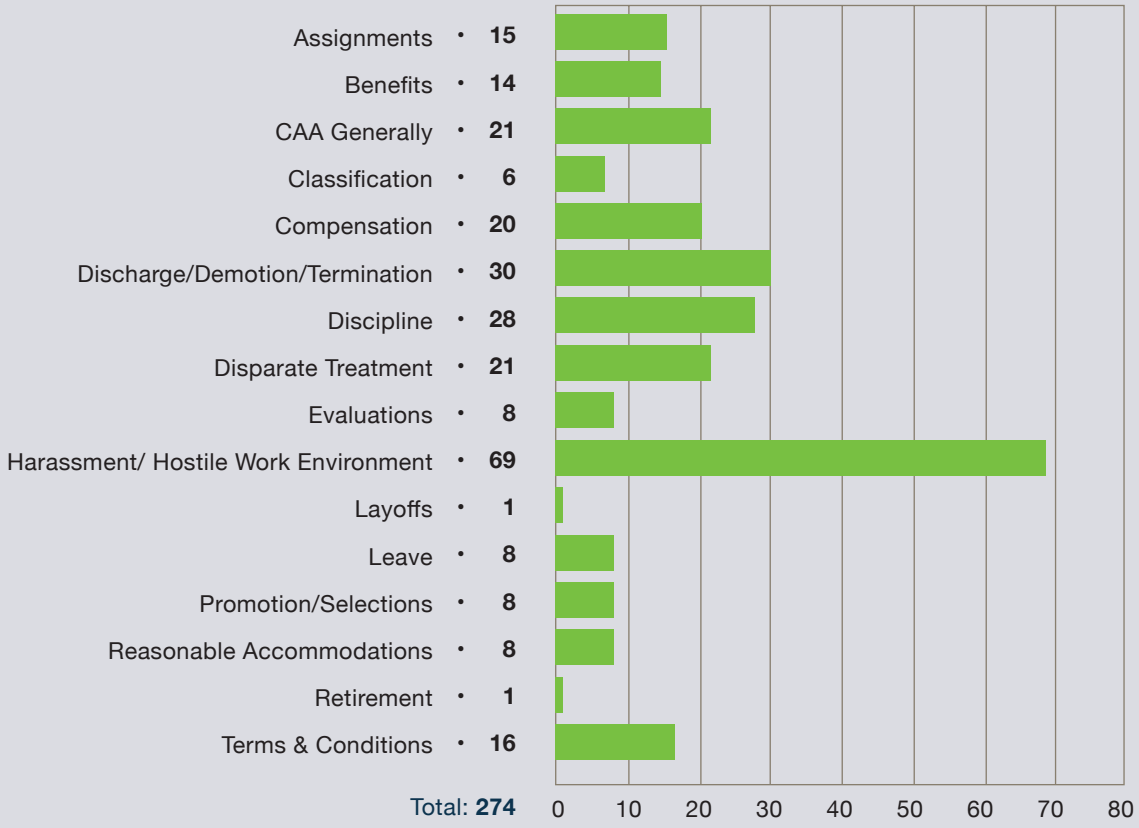
280: Total Contacts by Section of Law

(An individual contacting the OOC may inquire about more than one section of the law)

General information requests listed under the "CAA Generally" category may include non-specific questions regarding the OOC's jurisdiction on employment matters and calls from the public and non-eligible employees. For instance, employees of the Library of Congress (LOC) who are not covered by many sections of the CAA may call with questions about their rights under the CAA. These employees may be referred by the OOC back to the LOC which has its own internal dispute resolution process.

+ General Information Requests by Issue

(An individual contacting the OOC may inquire into more than one workplace issue)



The most common general inquiries related to concerns about harassment and/or hostile work environment followed by questions about discharges/demotions/terminations.

REQUESTS FOR CONFIDENTIAL COUNSELING: INITIATING A FORMAL PROCEEDING

Confidential counseling is the first step in the formal dispute resolution process. During counseling, an OOC counselor helps the employee to better understand his/her claim based on the facts of the situation and the requirements under the law. The employing office is not notified by the OOC that the employee has filed a request for counseling because counseling between the employee and the OOC is strictly confidential.

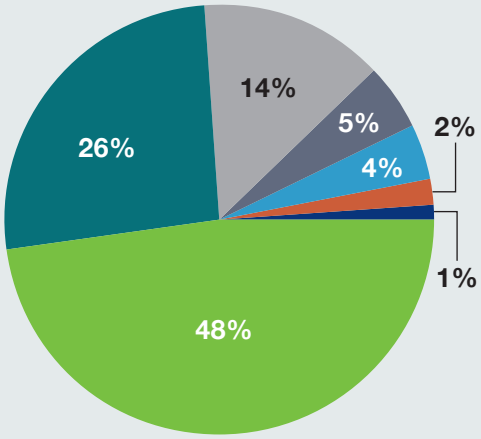
To formally assert and preserve his/her claim, a Congressional employee (or applicant or former employee) must file a formal request for counseling within 180 days of the alleged violation.

Counseling Proceedings	
New requests for counseling filed in FY 2013	81
Cases resolved during counseling in FY 2013 (includes proceedings carried-over from prior reporting periods)	19
Cases pending in counseling as of September 30, 2013	5

Employees filed 81 new counseling requests in FY 2013. Of the claims processed in FY 2013, 19 were resolved during counseling.

During counseling, cases may be resolved as employees are provided with additional information that enables them to thoroughly assess their claim and explore various avenues for resolution.

+ Requests for Counseling Filed Against All Employing Office



- **39** • Office of the Architect of the Capitol
- **21** • United States Capitol Police
- **11** • House (Member Office)
- **4** • Senate (Senator office)
- **3** • House (support or committee office)
- **2** • CBO—Congressional Budget Office
- **1** • Senate (support or committee office)

81: Total

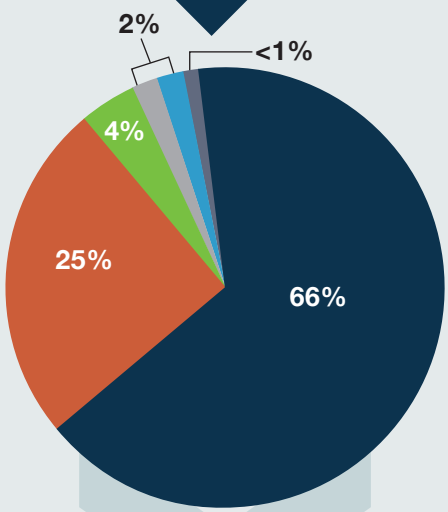
Most requests for counseling came from employees, former employees of, or applicants to the Office of the Architect of the Capitol (48%), and the U.S. Capitol Police (26%).

REQUESTS FOR CONFIDENTIAL COUNSELING: INITIATING A FORMAL PROCEEDING (CONTINUED)

+ Summary of Requests for Counseling by Section of the CAA
(A single request for counseling may allege a violation of more than one section of the CAA)

The most common alleged violations of the CAA related to discrimination and harassment based on a protected trait such as sex, race, age, and/or disability under Section 201 of the CAA.

Approximately 66% of the allegations raised during counseling in FY 2013 related to Section 201. Retaliation (25%) was the second most alleged violation of the CAA (Section 207).



- **164** • Section 201—(Claims of discrimination and/or harassment) Title VII of the Civil Rights Act, Age Discrimination in Employment Act, Rehabilitation Act, Americans with Disabilities Act/Rehabilitation Act
- **10** • Section 202—Family Medical Leave Act
- **6** • Section 203—Fair Labor Standards Act
- **1** • Section 204—Polygraph Protection
- **6** • Section 206—Uniformed Services Employment and Reemployment Rights Act
- **61** • Section 207—Prohibition of intimidation, reprisal, retaliation

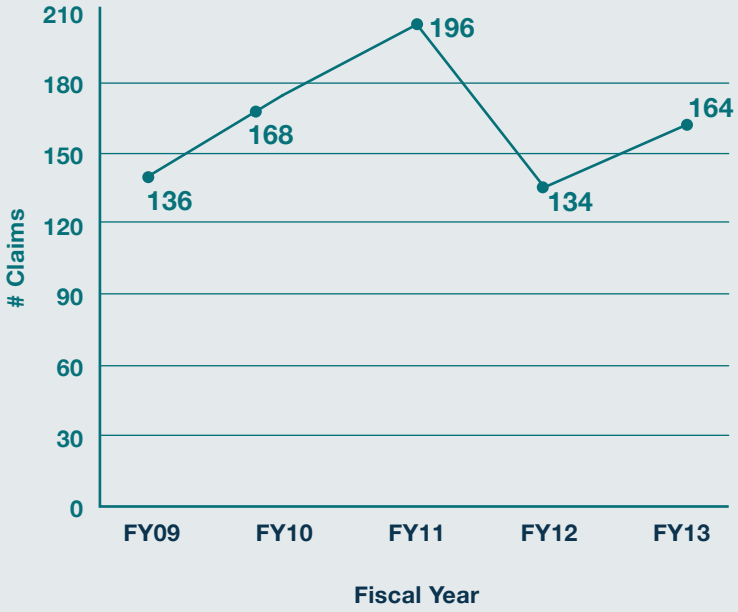
248: Total*

Section 201 Claims of Discrimination and/or Harassment Listed by Protected Categories (A covered employee may allege more than one claim of discrimination and/or harassment by protected category)	
Race/Color	61
Sex/Gender/Pregnancy	37
Disability (physical/mental)	28
Age	26
National Origin	9
Religion	3
Total	164

As in prior years, the most common claims of discrimination and/or harassment were based on race, followed by sex, disability, and age under Section 201 of the CAA.

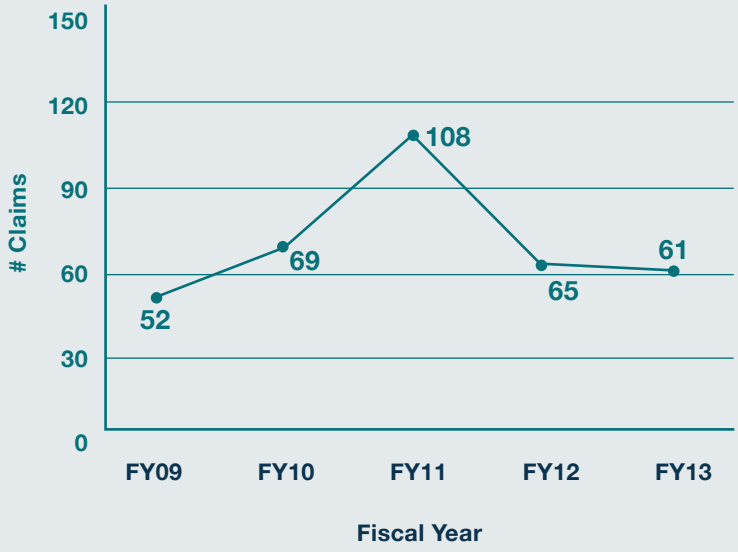
*No claims were filed in FY 2013 under the Genetic Information Nondiscrimination Act, Veterans' Employment Opportunities Act, or Worker Adjustment and Retraining Notification Act.

+ 5 YEAR SNAPSHOT: Employee Claims Made During Counseling that Allege Discrimination and Harassment (Race, Sex, Age, Disability, National Origin, and Religion) Under Section 201 of the CAA



Claims of discrimination and/or harassment have remained relatively consistent since 2009. Employees who file requests for counseling often allege multiple types of discrimination and/or harassment under Section 201. For example, an employee may claim that she was discriminated against by not receiving a promotion because of her sex and because of her age.

+ 5 YEAR SNAPSHOT: Employee Claims Made During Counseling that Allege Retaliation, Intimidation, or Reprisal Under Section 207 of the CAA

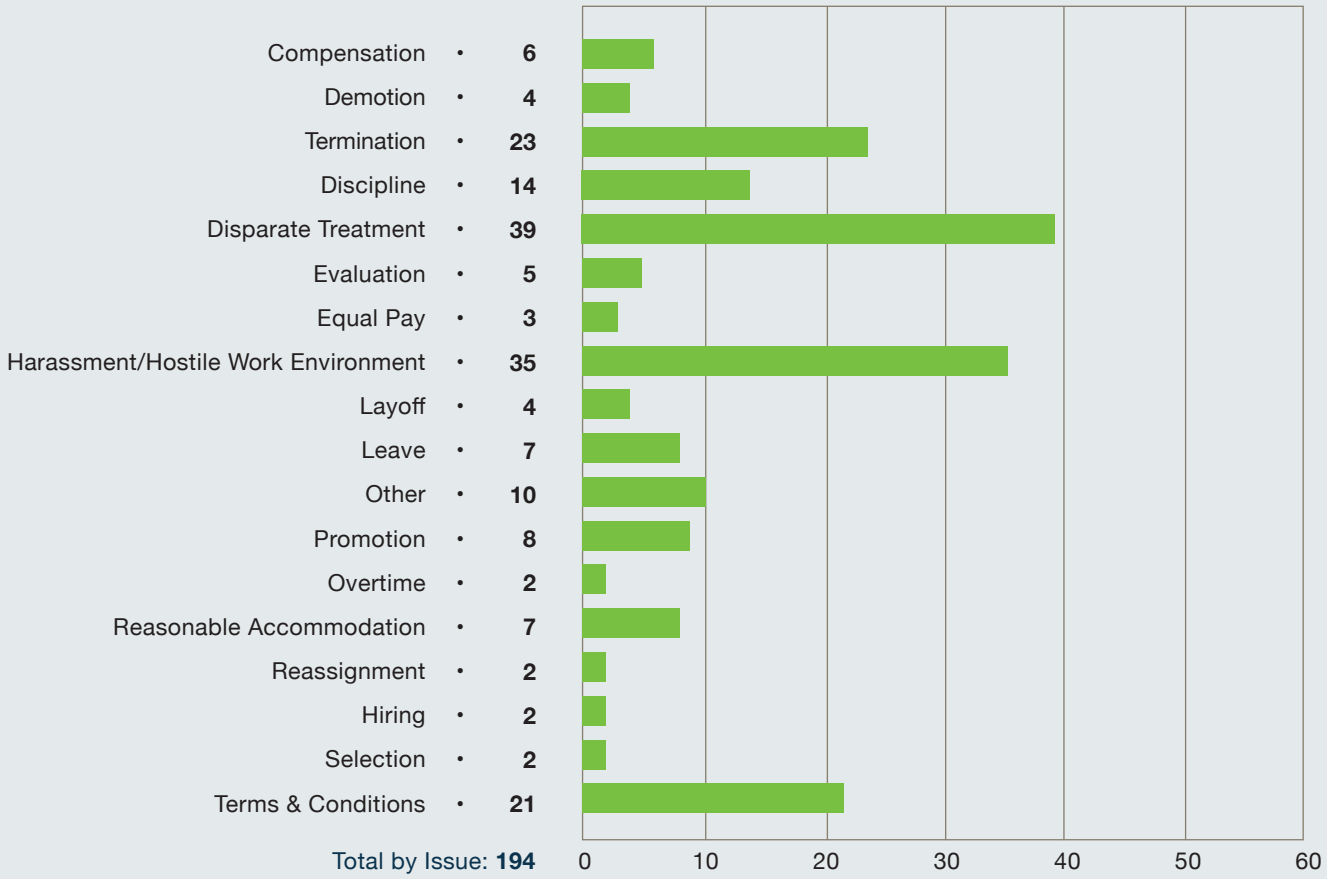


Retaliation claims have remained relatively consistent since 2009. Intimidation and reprisal allegations are often made along with other claims, such as discrimination and harassment.

REQUESTS FOR CONFIDENTIAL COUNSELING: INITIATING A FORMAL PROCEEDING (CONTINUED)

+ Workplace Issues Raised with the OOC by Employees in Counseling

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



Employees typically request counseling with questions on specific work issues. The most common issue in FY 2013 was disparate treatment. Of the 194 contacts by issue, 20% of the issues raised were related to concerns about inequitable treatment.

Other frequent questions included concerns about harassment/hostile work environment; terminations; and terms and conditions of employment.

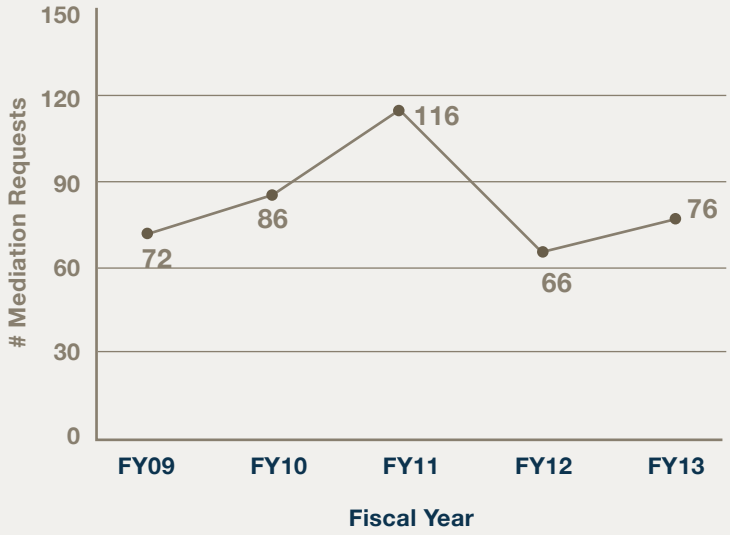
REQUESTS FOR MEDIATION: EFFORTS TO RESOLVE WORKPLACE DISPUTES RATHER THAN LITIGATE

Confidential mediation is the second step in the dispute resolution process. An employee may request mediation only after completing confidential counseling. Once the case proceeds to mediation, the employing office is notified about the claim and the parties attempt to settle the matter with the assistance of a neutral mediator appointed by the OOC. Even if mediation initially fails to settle the matter, it is not uncommon for the parties to renew mediation efforts later in the process. Resolving cases during mediation can save the parties from burdensome litigation, which can be expensive, time consuming, and a drain on resources and productivity.

Mediation Proceedings	
New Requests for Mediation filed in FY 2013	76
Cases resolved at the mediation stage by formal settlements, withdrawal, or no further action in FY 2013 (includes proceedings carried-over from prior reporting periods)	37
Total cases processed through mediation in FY 2013	113

Employees filed 76 new requests for mediation in FY 2013. Although many cases are resolved during counseling, a majority of employees who file requests for counseling proceed to mediation.

+ 5 YEAR SNAPSHOT: Requests for Mediation Filed by Employees Covered Under the CAA



There was a modest increase in the number of mediations conducted from FY 2012 to FY 2013. Notably, all of these mediations were conducted by an in-house OOC mediator. This practice has eliminated the need to hire outside mediators while maintaining an impressive settlement rate for compelled mediation.

ADJUDICATION OF CLAIMS: CONFIDENTIAL HEARING OR FEDERAL COURT

Adjudicating Claims: Request for Confidential Administrative Hearing at the OOC or Filing a Public Lawsuit in Federal Court

An administrative hearing is the third step in the dispute resolution process. If the parties fail to resolve their dispute in mediation, the employee may then file an administrative complaint with the OOC and the employee's case will be decided by a hearing officer in a confidential setting, or the employee can file a lawsuit in Federal district court, where his/her case would be a matter of public record.

Administrative Complaint Proceedings	
New Complaints filed in FY 2013	11
Complaints formally settled in FY 2013	3
Hearing Officer decisions issued in FY 2013 (some cases carried over from FY 2012)	10
Pending in hearing as of September 30, 2013	3
Withdrawn during hearing	1

There were a total of 17 administrative complaints processed in FY 2013, including those carried over from FY 2012. Complaints included allegations of violations of the Family and Medical Leave Act, Americans with Disabilities Act, Title VII of the Civil Rights Act, and protection against retaliation under the CAA.

The OOC does not formally track lawsuits filed in Federal district court.

APPEALS AND OTHER PROCEEDINGS

Appeals to the OOC Board of Directors

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

In Fiscal Year 2013, the Board of Directors issued 4 decisions. There was one exception to an arbitrator's award filed.

Petitions for Board Review of Hearing Officers' Decisions	
New petitions filed in FY 2013*	4
Pending from FY 2012	3
Petitions withdrawn in FY 2013	0
Board decisions issued in FY 2013 (including petitions carried over from previous years)	4
Pending Board review as of September 30, 2013	3

*Petitions filed include related cases that were joined

Final decisions by the Board of Directors can be appealed to the U.S. Court of Appeals for the Federal Circuit. The General Counsel of the OOC represents the OOC in matters appealed to the Federal Circuit. Once an appeal is filed in court, the appellate record is public.

OSHAct, ADA, and Unfair Labor Practice Proceedings

The General Counsel of the OOC is responsible for matters arising under three sections of the CAA: Section 210 (Public Services and Accommodations under the Americans with Disabilities Act of 1990), Section 215 (Occupational Safety and Health Act of 1970), and Section 220 (Unfair Labor Practices under Chapter 71 of Title 5, United States Code). Employees and employing offices frequently request information, advice, and technical assistance from the General Counsel. For example, the General Counsel has been asked for technical assistance to help ensure that people with disabilities can access Legislative Branch offices, information concerning methods of de-energizing mechanical equipment before beginning routine maintenance, and guidance on best practices used in private industry to maintain indoor air quality.

In FY 2013, the General Counsel received requests for information and assistance under OSHAct, ADA, public access, and Federal labor laws.

SETTLEMENTS AND AWARDS

Monetary Resolution of Employee Claims

Section 415 of the CAA establishes "an account of the Office in the Treasury of the United States for the payment of awards and settlements . . . under [the CAA]," and further appropriates "such sums as may be necessary to pay such awards and settlements." Section 415 requires that awards and settlements under the CAA be paid from that account. This Treasury account established under section 305 of the CAA is separate from the operating expenses account of the OOC. While the Executive Director must approve all settlements, it is the parties who decide the settlement amounts and terms. An award or judgment may be ordered by a hearing officer, the Board of Directors, or a court of competent jurisdiction.

Monetary settlements can often resolve multiple claims. While many of these settlements and awards resolved harassment, discrimination, and retaliation claims, there are other settlements and awards in the accompanying chart that resolved claims arising out of contract and/or pay disputes.

Fiscal Year	Total Number of Settlements/Awards	Total Aggregate Amount of Settlements/Awards
1997	6	$39,429
1998	16	$103,180
1999	6	$72,350
2000	15	$45,638
2001	7	$121,400
2002	10	$3,974,077
2003	11	$720,071
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	23	$461,366
2012	12	$426,539
2013	14	$334,823

CASE RESOLUTION ANALYSIS FOR CASES REPORTED IN LAST YEAR'S ANNUAL REPORT (FY 2012)

Workplace violation claims by Congressional employees must go through confidential counseling and mediation in the dispute resolution process mandated by the CAA before a case can proceed to adjudication, either through a confidential administrative hearing before an OOC hearing officer or through a civil lawsuit filed in Federal district court (a public forum). Historically, the majority of cases filed at the OOC are resolved confidentially during our counseling and mediation process.

In FY 2012[1], the OOC reported that 83 formal requests for counseling were filed by Congressional employees. By filing a formal request for counseling, a Congressional employee initiates a "case" alleging single or multiple violations of the CAA by an employing office. As shown elsewhere in this report, the majority of claims brought to the OOC involve discrimination, harassment, retaliation and unfair terms/conditions of employment.

Cases can be resolved at any point during the process from initial counseling to the appeal process. There are various reasons that a case is resolved including, but not limited to: (1) a settlement is reached between the employer and employee, including a settlement for monetary compensation, an employment action (e.g., promotion, rehire, transfer, raise or modified schedule); (2) a decision by the employee to no longer pursue the claim; or (3) an adjudication of the case by a Court or hearing officer.

These charts show the point in the process at which cases filed with the Office of Compliance in FY 2012 were resolved. In Fiscal Year 2012, 77% of all cases that were filed were resolved confidentially in OOC's internal process. Of the 83 cases, 14 cases were filed against employing offices of the House and Senate, and 79% of those were resolved confidentially.

Resolution Analysis of 83 Cases from FY 2012	# of Cases Resolved	% of Cases Resolved
Resolved at Confidential Counseling stage	8	10%
Resolved at Confidential Mediation stage	44	53%
Resolved at Confidential Hearing stage (Administrative Complaint)	5	6%
Appealed to Board of Directors	7	8%
Appealed Board of Directors Decision to Federal Circuit Court of Appeals	0	0%
Filed Complaint in Federal district court	19	23%
Total Resolution During or After Confidential Administrative Proceedings Before the OOC[2]	64	77%

Focus: Resolution Analysis of 14 cases from FY 2012 against House and Senate	# of Cases Resolved	% of Cases Resolved
Resolved at Confidential Counseling stage	4	29%
Resolved at Confidential Mediation stage	5	36%
Resolved at Confidential Hearing stage (Administrative Complaint)	1	7%
Appealed to Board of Directors	1	7%
Appealed Board of Directors Decision to Federal Circuit Court of Appeals	0	0%
Filed complaint in Federal district court	3	21%
Total Resolution During or After Confidential Proceeding with the OOC[2]	11	79%

The OOC's process in FY 2012 successfully resolved 77% of all claims in our confidential administrative proceeding. When viewing claims against House and Senate offices the confidential resolution rate was slightly higher at 79% for FY 2012.

[1] In order to see a more complete picture of case resolution, this chart reflects cases filed in FY 2012.

[2] Includes resolutions during or after counseling, mediation, administrative hearing, or appeal to the Board of Directors.

III. RECOMMENDATIONS FOR IMPROVEMENT: AMEND THE CAA TO REQUIRE ANTI-DISCRIMINATION TRAINING FOR ALL EMPLOYEES, POSTINGS OF WORKPLACE RIGHTS IN ALL EMPLOYING OFFICES, AND WHISTLEBLOWER PROTECTIONS FOR LEGISLATIVE BRANCH EMPLOYEES

When Congress passed the CAA to apply workplace rights laws to the Legislative Branch, it did not include significant provisions of some of those laws and exempted itself entirely from others, such as the Whistleblower Protection Act of 1989 and the No FEAR Act of 2002. In this regard, two core purposes of the CAA are not fully realized—to ensure Congress follows the same laws as do U.S. businesses and the Executive Branch, and to provide an effective means for Congressional employees to assert their rights.

These are some of the reccomendations made by the Board of Directors in previous biennial reports submitted to Congress pursuant to Section 102(b) of the CAA.[1] All 102(b) reports are available on the OOC website at **www.compliance.gov**.

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

CONGRESS AND ITS AGENCIES ARE EXEMPT FROM TRAINING PROVISIONS

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

Section 202(c) of the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act) requires that each Federal agency in the Executive Branch provide employees training regarding their rights and remedies under anti-discrimination and anti-retaliation laws. By regulation, all current Executive Branch employees and managers must be trained by a certain date, and training thereafter must be conducted no less than every two years. New employees receive training as part of a new hire orientation program. If there is no new hire orientation program, new employees must receive the applicable training within 90 days of their appointment.

It has long been recognized that anti-discrimination and anti-retaliation training for employees provides many benefits in the workplace. By informing employees about their rights, they learn to differentiate between what the law prohibits, such as unlawful harassment, and what the law does not prohibit, such as everyday non-discriminatory personnel decisions. Employees also learn how to seek redress for violations of their rights and the remedies available to them under the law. Training also informs managers of their obligations as supervisors. Often, supervisors run afoul of the law because they were not properly informed of their responsibilities or about best practices for handling discrimination and retaliation issues. Mandatory training has the effect of reducing discrimination and retaliation claims, improving the workplace environment, and lowering administrative and legal costs. The OOC feels it is important that Members of Congress and their staffs be equally trained on the rights of Legislative Branch employees. While we are able to reach some Members through New Member Orientation at the start of a new Congress, as with staffers, it is not required for Members to attend. By having mandatory training for both the Member and staff, the OOC could reduce the number of claims brought by congressional staffers, while also satisfying the statutory mandate of the Education and Outreach program.

To this end, in the last fiscal year, the OOC has worked tirelessly with Member offices and Committee staff to expand our accessibility to House and Senate IT services. This expansion would allow us to reach staffers in the most timely and efficient manner possible.

Additionally we have increased our training efforts with other Legislative Branch agencies. We are working closely with numerous agency staffs to promote Workplace Rights training, antidiscrimination training, and providing information on the Family and Medical Leave Act (FMLA). These training opportunities have proved invaluable to these offices, and we know they would be equally helpful to House and Senate staffers as well.

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

CONGRESS AND ITS AGENCIES ARE EXEMPT FROM NOTICE-POSTING PROVISIONS

42 U.S.C § 2000e-10(a)(Title VII)
29 U.S.C. § 2003 (EPPA)
29 U.S.C. § 627 (ADEA)
38 U.S.C. § 4334(a) (USERRA)
42 U.S.C. § 12115 (ADA)
29 U.S.C. § 657(c) (OSHAct)
29 U.S.C. § 211 (FLSA/EPA)
5 U.S.C. § 2301 note (notice-posting provision of No FEAR Act)
29 U.S.C. § 2619(a) (FMLA)

[1] The latest 102(b) report is titled "Recommendations for Improvements to the Congressional Accountability Act" dated December 2012.

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

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

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

Congress passed the Whistleblower Protection Act of 1989 (WPA) to protect Federal workers in the Executive Branch from retaliation for reporting violations of laws, rules or regulations, gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Since that time, Congress has also passed other whistleblower protection laws, such as the Sarbanes-Oxley Act, to protect employees in the private sector who report similar violations. While there may be the same type of abuses and gross mismanagement in the Legislative Branch as there is in the private sector and Executive Branch, Congressional employees do not have whistleblower protections if they decide to report such matters. As Congress has recognized, employees are often in the best position to know about and report violations of law, waste, mismanagement, and abuse in government and they need protections against retaliation when they disclose these violations. Furthermore, whistleblowers save taxpayer dollars. The Board of Directors recommends that Congress apply to the Legislative Branch appropriate provisions of the WPA to provide Congressional employees protections from retaliation.

STATE OF SAFETY & HEALTH

This section of the Annual Report is an overview of some of the information that will be included in the Office of Compliance's ***112th Congress Biennial Report on Occupational Safety and Health Inspections***, which will be released in 2014.

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

SECTION HIGHLIGHTS

- OOC continues to adjust and improve our risk-based OSH inspection program
- OOC resolved several requester-initiated inspections

+ OOC worked with AOC to abate outstanding citations

I. WHAT THE LAW REQUIRES: CONGRESSIONAL COMPLIANCE WITH OSHACT

Occupational Safety and Health Under the Congressional Accountability Act

Congress passed the Occupational Safety and Health Act (OSHAct) in 1970 "[t]o ensure safe and healthful working conditions for working men and women[.]" OSHAct Section 1. In what has come to be known as the "General Duty Clause" the statute requires employers to furnish each employee "employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious harm to employees." OSHAct Section 5(a)(1). The Act also requires employers and employees to comply with occupational safety health standards issued pursuant to statute. OSHAct Sections 5(a)(2), 5(b).

Section 215 of the Congressional Accountability Act (CAA) requires employing offices and employees to comply with Section 5 of the OSHAct, i.e., the General Duty Clause and occupational safety and health standards promulgated under the OSHAct. Section 215(e)(1) of the CAA requires the General Counsel of the Office of Compliance (OOC) to inspect Legislative Branch facilities for compliance with the General Duty Clause and occupational safety and health standards under the OSHAct at least once each Congress. Thereafter, the General Counsel is required to report the results to the Speaker of the House, President pro tempore of the Senate, and offices responsible for correction violations, including the Congressional Budget Office, Government Accountability Office, Library of Congress, Office of the Architect of the Capitol (AOC), Office of the Attending Physician, OOC, Office of Congressional Accessibility Services, and the United States Capitol Police. CAA Section 215(e)(2).

II. ACCOMPLISHMENTS & COMPLIANCE ASSESSMENT

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

The OSH specialists in the Office of the General Counsel conduct inspections for the biennial report and respond to requests for inspection. The CAA requires that at least once each Congress, the General Counsel conduct inspections of all facilities of the House of Representatives, the Senate, the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Library of Congress, and the Government Accountability Office. Due to resource constraints, the General Counsel moved to a risk-based OSH inspection program beginning in the 112th Congress that focused on inspecting higher-risk hazards[1] that pose the greatest threat of fatalities and injuries to workers and building occupants. The General Counsel no longer inspects every area of "all facilities" at least once each Congress. Instead, we target high-voltage areas, machine shops, boiler rooms, and other high risk hazard areas in "all facilities," as well as worksites with repeat hazards that pose the most serious threats to worker health and safety.[2] Areas of special interest include all day care facilities and the Senate Page School and Dorm.

We conducted most of the biennial inspection later in FY 2013 when we were able to rebuild our team of OSH specialists from a low of two part-time contractors to a total of six (two part-time and two full time contractors and two employees). We inspected facilities used by the Library of Congress, the U.S. Capitol Police, the House of Representatives, the AOC, the Chief Administrative Officer, the U.S. Capitol and the U.S. Capitol Power Plant. We conducted a follow up review from the 112th Biennial inspection of the progress being made on the Hazard Communication and Personal Protective Equipment programs. Employers with hazardous chemicals in their workplaces are required to have at a minimum container labels, safety data sheets, and employee training on their site specific Hazard Communication program. For a Personal Protective Equipment program employers are required to conduct an assessment of their operations to determine the personal protective equipment that must be provided to employees in order to protect them against hazards in the workplace and to ensure that employees have been effectively trained on the use of the equipment. This equipment can include but is not limited to hard hats, respirators, hearing protection, hard-toed shoes, and special eyewear.

[1] OOC uses a Risk Assessment Code (RAC) system to classify hazards. RACs are classified in descending order of severity and likelihood of occurrence, from RAC I to RAC IV. "Higher risk" refers to hazards rated RAC I or RAC II.

[2] For remote legislative facilities, such as district and state offices, OOC provides technical assistance that enables the office to conduct self-inspections.

During the inspections, our OSH specialists observed operations, finding it particularly helpful to see employees actually using the equipment and working. Before beginning the inspection, they conducted an opening conference with designated employing office representatives, safety and health staff, and union representatives (when employees at the location were covered by collective bargaining agreements). Escorts from the employing offices and unions accompanied the OSH specialists during the inspections. At the end of each inspection day, the OSH specialists briefed employing office and union staff about their findings. They also conducted a closing conference to all parties after completing inspections in each jurisdiction. The General Counsel issued two notices of serious deficiencies during the Biennial inspection—one involving lamps in the main reading room and the other involving fall protection at a work site, both at the LOC—that were quickly remedied.

Among requestor-initiated inspections, the General Counsel worked with representatives from the Architect of the Capitol to resolve issues relating to fire safety, lead and asbestos abatement, respirator use and maintenance, heat stress for Capitol tour guides, a malfunctioning fire alarm, Capitol Dome tour capacity, hazardous energy source logout/tag out procedures, and an alleged incident involving falling concrete. We worked with the U.S. Capitol Police to address Hazmat Response Team training, heat stress for officers, and physical exams for the wearing of respirators. The General Counsel issued no citations in FY 2013, but continued to make progress on the abatement of outstanding citations. More specifically, we accepted requests for modified abatement for exit stairwells in several buildings to comply with fire safety standards. Additional information from Architect of the Capitol representatives is under review for a modified abatement for book conveyers, stairwells, and fire doors, and for the completion of construction for the removal and containment of lead and asbestos.

Perhaps our most difficult challenge concerns the abatement of fire safety hazards posed by open rotundas and adjoining unenclosed stairwells. Cost concerns, design considerations, and related historic preservation issues make abatement of these hazards challenging and difficult in buildings with these features. Much progress has been made on this long standing issue and we continue to meet with stakeholders to devise an approach that satisfies fire safety standards.

Also a top challenge is the balancing of our authorities under the CAA with the safeguarding of security sensitive information. In FY 2013 we experienced difficulty accessing certain mail facilities for inspection, and our Amended Citation 19 was heavily redacted to remove the location of the violation, the item that was in violation of the standard, and how it was in violation of the standard, as well as the risk to employee health and safety associated with the violation. The CAA grants the General Counsel the same authorities as the Secretary of Labor to issue citations to employing offices for correcting violations of the OSHAct. Those authorities require the posting of each citation describing with particularity the nature of the violation in writing near the location of the hazard. It is apparent there is a tension between our CAA-mandated duty to convey this information to employees for their own protection and what the U.S. Capitol Police Board and others may regard as security sensitive information that should not be disclosed.

III. RECOMMENDATIONS FOR IMPROVEMENTS: CONGRESSIONAL EMPLOYEES DO NOT HAVE THE SAME OSHACT PROTECTIONS AS PRIVATE SECTOR EMPLOYEES.

When enacting the occupational safety and health provisions of the CAA, Congress did not include all provisions of the OSHAct that apply to the private sector. Section 102(b) of the CAA requires the Board of Directors of OOC to recommend changes to the CAA to advance workplace rights. In past Section 102(b) reports, and in the recommendations for the 111th Congress, the Board identified three provisions that should be made applicable to the Legislative Branch under the CAA. They concerned subpoena authority to obtain information for safety and health investigations (OSHAct section 8(b), 29 U.S.C. section 657(b)); recordkeeping of Congressional employee injuries (OSHAct section 8(c), 29 U.S.C. section 657(c)); and protection of Congressional employees from retaliation for reporting alleged OSHAct violations (OSHAct section 11(c), 29 U.S.C. section 660(c)(2)).

Because the General Counsel no longer has the resources to thoroughly inspect "all facilities" at least once each Congress, and no subpoena authority or access to injury records, it becomes even more vital that Congressional employees feel they can step forward on their own and report OSHAct violations without fear of retaliation. Under section 11(c) of the OSHAct, private sector workers who believe they were unfairly treated because they complained or testified about unsafe or unhealthy working conditions can file a complaint with the Occupational Safety and Health Administration, and the Office of the Solicitor may pursue settlement and file a civil action in U.S. district court. Congressional employees lack such legal protection against retaliation, which can have a chilling effect on their participation in safety and health issues. We recommend the General Counsel be given the authority under the CAA to pursue allegations of retaliation, using the processes provided in the CAA.

STATE OF ACCESS TO CONGRESSIONAL PUBLIC SERVICES & ACCOMMODATIONS

This section of the Annual Report is an overview of some of the information that will be included in the Office of Compliance's ***112th Congress Biennial Report on Americans with Disabilities Inspections Relating to Public Services and Accommodations***, which will be released in 2014.

SECTION HIGHLIGHTS

- During the 112th Congress OOC inspected the exteriors of the Library of Congress buildings (Madison, Adams, Jefferson) and the Senate office buildings (Hart, Russell, Dirksen)
- Issues with curb ramps remain prevalent

+ OOC seeks opportunities early in the process to reduce barriers in new construction and alterations

I. WHAT THE LAW REQUIRES: ACCESS TO CONGRESSIONAL PUBLIC SERVICES AND ACCOMMODATIONS FOR PEOPLE WITH DISABILITIES

The General Counsel is responsible under CAA Section 210, ADA Public Services and Accommodations, for: (1) defining and clarifying rights and protections against discrimination because of disability in the provision of public services and accommodations (CAA section 210(b)(1); (2) processing, investigating and prosecuting charges of discrimination (CAA section 210(d)(1)); and (3) inspecting facilities for ADA access violations and report the results of these inspections to Congress (CAA section 210(f)). We have relied on the substantive ADA access regulations issued by the Attorney General (Department of Justice) and the Secretary of Transportation (Department of Transportation), as well as those by the Access Board for web access and rental properties.

The CAA requires the General Counsel, on a regular basis, and at least once each Congress, to inspect the facilities of each office of the Senate, each office of the House of Representatives, each joint committee of Congress, the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, to ensure compliance with the rights and protections against discrimination in public services and accommodations established under Titles II and III of the Americans with Disabilities Act of 1990 (ADA). CAA Section 210(f)(1). Thereafter, the General Counsel must report the results to the Speaker of the House, President pro tempore of the Senate, and offices responsible for correcting violations. CAA Section 210(f)(2). The General Counsel uses the same OSH specialists to perform the ADA and OSHAct inspections, and at times the OSH specialists may identify an ADA issue during an OSHAct inspection. The General Counsel will share that information with the office responsible for correcting the issue.

II. ACHIEVEMENTS & COMPLIANCE ASSESSMENT

During the 111th Congress, the General Counsel focused on identifying barriers on pathways surrounding the House office buildings and identifying representative barriers in public restrooms throughout the campus. During the 112th Congress the OSH specialists inspected the exteriors of the Library of Congress buildings (Madison, Adams, Jefferson) and the Senate office buildings (Hart, Russell, Dirksen).

The inspections found sidewalk cracks that are too wide or deep; cross slopes that are too steep; vertical transitions that are too high or too deep; curb ramps with slopes and cross slopes that are too steep; inadequate landings, deteriorated or missing detectable warnings and locations outside of marked crosswalks; protruding objects; and other barriers. We shared cost estimates and severity codes with the employing offices and representatives of the Architect of the Capitol. The OOC classifies each barrier to access using a severity code that is determined by how severely the barrier deviates from the ADA Standards and the effect of this deviation. Severity Code A represents a safety consideration, Code B blocks access, Code C is a major inconvenience, and Code D is a minor inconvenience.

During the fiscal year, the General Counsel received one request for inspection. A member of the public requested an inspection concerning the ADA accessible entrances to two Library of Congress buildings. One of the entrances was blocked by construction and another had a broken door opener. A third entrance was closed after 2:00 p.m. on weekdays and on all weekend days. An Architect of the Capitol representative reported during the opening conference for the inspection that the door opener had been repaired and was fully operational. The building construction area was modified so the other entrance was accessible. We arranged to have an inspection of the locations and to issue a report.

The OOC Board is planning to issue regulations to implement CAA Section 210 during FY 2014 (a prior attempt was made in 1997). If the OOC Board decides that a modification of the substantive regulations promulgated by the Attorney General and the Secretary of Transportation would be more effective for the implementation of the rights and protections under CAA Section 210, it can issue regulations that deviate from those issued by the Departments of Justice and Transportation. Based upon our ADA inspections, there is good cause to believe that a modification relating to new construction and alterations would help avoid past situations where new construction or alteration of a ramp or sidewalk or other item has to be redone because it was not ADA compliant.

STATE OF LABOR RELATIONS

The Congressional Accountability Act of 1995 (CAA) grants certain Legislative Branch employees the right to join a labor organization for the purpose of collective bargaining under Chapter 71 of the Federal Services Labor-Management Relations Act. The CAA protects these employee's rights to form, join, or assist a labor organization without fear of penalty or reprisal. The rights of employees who choose not to join or participate in a labor organization are also protected.

SECTION HIGHLIGHTS

- The OOC has jurisdiction over approximately twenty bargaining units in the Legislative Branch
- The OOC General Counsel investigated 14 complaints of unfair labor practice this year

+ Retaliation for union activity was the most common claim in FY 2013

I. WHAT THE LAW REQUIRES: SOME CONGRESSIONAL EMPLOYEES HAVE THE RIGHT TO ORGANIZE, NEGOTIATE AND BE REPRESENTED BY LABOR UNIONS

Section 220 of the CAA makes the Federal Service Labor-Management Relations (FSLMR) Statute[1] applicable to covered employees and employing offices within the Legislative Branch, and prohibits unfair labor practices by both employing offices and labor organizations. While not all employees of the Legislative Branch may form or join a labor organization, many may, including certain employees of the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Congressional Accessibility Services and the United States Capitol Police.

Under the CAA, the OOC is involved in all aspects of employee representation by labor organizations from initial certification of a labor organization as an exclusive bargaining representative to investigating unfair labor practices by both employing offices and labor organizations.

Employing offices are prohibited under the CAA from:

- Interfering with, restraining, or coercing any employee in the exercise by the employee of any right provided under Section 220 of the CAA
- Encouraging or discouraging membership in any labor organization
- Refusing to consult or negotiate in good faith with a labor organization

Labor organizations are prohibited from:

- Interfering with, restraining, or coercing any employee in the exercise by the employee of any right provided under Section 220 of the CAA
- Causing or attempting to cause an employing office to discriminate against any employee in the exercise of any right under Section 220 of the CAA.
- Refusing to consult or negotiate in good faith with an employing office
- Calling or participating in a strike, work stoppage, or slowdown

This is not a complete list of unfair labor practices. For more information about the CAA and labor-management rights, please contact the OOC. Information is also available online at **www.compliance.gov**.

II. ACHIEVEMENTS & COMPLIANCE ASSESSMENT: COMPLAINTS RECEIVED AND INVESTIGATED BY THE GENERAL COUNSEL

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

The OOC has jurisdiction over approximately twenty bargaining units, most of which are comprised of employees of the Architect of the Capitol. Employees of the United States Capitol Police and certain employees of the House of Representatives and the Senate are also represented by labor organizations. AFSCME Council 26 represents the most bargaining units, followed by the NABET-CWA and the Teamsters. A wide variety of employees are unionized, including police officers, masons, carpenters, electricians, plumbers, freight and material handlers, guides and visitor assistants, power plant laborers, photographers and videographers, and clerical and administrative workers.[2]

In FY 2013, the General Counsel received and investigated 14 complaints of unfair labor practices, with a range of allegations including bargaining violations, denial of representation, and retaliation for union activity, among others. The General Counsel worked with the parties to resolve many of these cases, as well as several cases from the previous fiscal year.

[1] U.S. Code Title 5, Chapter 71

[2] Additional labor organizations on Capitol Hill, such as the unions representing Library of Congress employees, do not fall under the jurisdiction of OOC.

Parties to Unfair Labor Practice Charges Filed in FY 2013		
Cases	**Charging Party**	**Employing Office**
6	Labor Committee, Fraternal Order of Police	United States Capitol Police
4	AFSCME, on behalf of Capitol Visitor Center guides and material handlers	Office of the Architect of the Capitol
1	IBEW, on behalf of an electrician	Office of the Architect of the Capitol
3	NABET-CWA, on behalf of House of Representatives videographers	Office of the Chief Administrative Officer/ House Recording Studio

Types of Unfair Labor Practice Charges Filed in FY 2013	
Cases	**Allegations**
5	Retaliation for union activity
3	Impermissible unilateral changes to employment conditions /failure to bargain
1	Surface bargaining
1	Failure to respond to request for information
1	Denial of representation
1	Repudiation of negotiated grievance procedures
2	Miscellaneous violations

Labor-Management Relations Cases Closed in FY 2013	
Cases	**Outcome**
1	Warning issued to employing office
2	Dismissed as untimely filed
4	Withdrawn at General Counsel's request after investigation revealed insufficient evidence of violation
1	Dismissed because grievance had already been filed on the same claim
1	Settled by parties

Open Labor-Management Relations Cases[3]	
Cases	**Outcome**
7	Settlement pending or settlement negotiations underway
2	Under investigation while parties pursue impasse procedures

[3] As of January 14, 2014

APPENDIX

APPENDIX A: ACRONYMS

Alternative Dispute Resolution: ADR

Americans with Disabilities Act: ADA

Architect of the Capitol: AOC

Capitol Visitor Center: CVC

Congressional Accountability Act of 1995: CAA

Congressional Budget Office: CBO

Congressional Management Foundation: CMF

Employee Polygraph Protection Act: EPPA

Fair Labor Standards Act: FLSA

Family and Medical Leave Act: FMLA

General Counsel of the Office of Compliance: GC

Genetic Information Nondiscrimination Act: GINA

Government Accountability Office: GAO

Government Printing Office: GPO

Library of Congress: LOC

Occupational Safety and Health: OSH

Occupational Safety and Health Act: OSHAct

Office of Compliance: OOC

Risk Assessment Code: RAC

Uniformed Services Employment and Reemployment Rights Act: USERRA

Veterans' Employment Opportunities Act: VEOA

APPENDIX B: STRATEGIC PLAN 2013–2015

GOAL I:

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

The Congressional Accountability Act requires the Office of Compliance to educate Legislative Branch employing offices—including Members of Congress—on the laws that apply to them under the CAA. The CAA also requires the OOC to inform covered employees—including applicants and former employees, where appropriate—of their rights under these laws. Although the OOC has always provided services in conjunction with this mandate, we only have a small staff dedicated to administering these services. The education and outreach program has experienced significant cuts in funding over the years, which have hampered the activities of the program. This strategic plan provides for an increase in services in this area. Recognizing that this mandate spans across the entire agency, OOC intends to give more attention and focus to our education and outreach efforts. It is a major component of our vision for the upcoming fiscal years, and we place great emphasis on this goal in the strategic plan. We envision more outreach, improved methods of communication, easier ways for the Congressional community to access our services and publications, and technologically advanced tools to reach Members and employing offices.

We anticipate meeting this goal by means of the following:

A. Utilize current social media to better inform and to become more-easily accessible to the Congressional community.

   As communication methods change and improve, so should agencies' efforts to reach out to their communities. The OOC will utilize Facebook to reach out to the Congressional community through the most popular and widely used form of social media. The OOC's Facebook page will provide individuals with OOC's website information, education and training opportunities, the latest news for the safety and health community, as well as news articles relevant to the rights of those in the Congressional workplace. We will also use this medium to post the latest reports, press releases, notification of rights, and publications produced by the OOC.

   The OOC will also utilize Twitter to reach out to communities far beyond that of Capitol Hill. The OOC will "tweet" the posting of our latest publications, Board decisions, OOC Congressional testimony, CAA-related legislative activity, the latest education and outreach information, and other news that pertains to the CAA. Utilizing Twitter to provide a real-time updating aspect to the Agency and to immediately inform the community of activity involving rights and responsibilities will keep the Legislative Branch workforce up to date on workplace rights, safety, health, and accessibility issues.

B. Target training for employing offices to assist in resolving those issues that are of particular importance to them and their staff.

   The OOC recognizes that there may be a gap in what we believe to be necessary for the Congressional community and what the Congressional community is actually seeking from our Agency. We want to be responsive to the training needs expressed by employing offices and equip these offices and their employees with the tools they need to create a working environment envisioned by the CAA. To that end, our training will be focused on making available to employing offices workshops and seminars designed to meet a particular need of the employing office and its staff, or address a current topic of interest expressed by an employing office. We will also research the feasibility of partnering with the Federal Circuit Bar and the House Learning Center to develop on-line training tools that provide valuable information, applicable exercises, and an education resource for its managers and staff.

C. Collaborate with Congress to mandate training for employing offices, including online modules, utilizing the Federal Circuit Bar and the House Learning Center as a supplemental resource.

   In its 2010 Report to Congress on recommended improvements to the Congressional Accountability Act, the Office of Compliance Board of Directors recommended amending the CAA to require training for all Congressional staff on the rights and protections under the CAA. The Executive Branch of the Federal government and some states require periodic training on workplace rights. To achieve comparable training in the Legislative Branch, the OOC will continue to work with our oversight committees in both the House and the Senate, as well as other interested stakeholders, in an effort to raise awareness of the need for mandatory training and continue the dialogue for implementing the Board's recommendation. We will also research different on-line tools to provide for mandatory training, utilizing the Federal Circuit Bar and the House Learning Center, if appropriate, as resources in achieving online efforts.

D. Offer periodic columns for Hill newspapers on CAA issues.

   The Office of Compliance administers workplace rights laws and enforces safety and health and public accessibility standards on Capitol Hill. As such, our staff are the experts in

these areas and maintain a wealth of knowledge on workplace issues of interest to the Congressional community. OOC staff will write columns and/or articles for Capitol Hill publications in order to provide information and assistance to Congress and its instrumentalities on safety and health, public access, and workplace rights issues that may affect the Congressional workplace. Because Hill publications are read widely by the Congressional community, such columns will lead to greater awareness of the CAA and best practices on dealing with its requirements in the Congressional workplace.

E. Provide information to new Member Offices.

The OOC has had success in providing educational material to, and informing new Members of Congress about the laws and procedures of the CAA and the OOC. One of the main vehicles for dissemination of this information is through in-person visits to new Member offices. The OOC will continue to provide newly elected Members and their staff with information about the rights and responsibilities covered in the CAA and the services provided by the OOC. We will carry on our practice of involving all levels of staff to engage with stakeholders in these visits, to increase the visibility of the Agency, to invite discussion from new Members' staff, and to answer questions about the CAA and the OOC.

F. Create a new item on the OOC website media stream that spotlights member offices.

One of OOC's annual publications was its newsletter. This newsletter featured articles from the OOC's Executive Director and General Counsel, as well as from Members of the House of Representatives and the Senate. This newsletter was mailed to the home of every Congressional employee each year. The information contained in the newsletter was beneficial to employees and in line with the CAA's mandate to educate employees, but the weight combined with the wide distribution of the newsletter made the mailing cost-prohibitive. In an effort to produce and disseminate educational material in a more cost-effective manner, and via methods that are easy for our stakeholders, OOC replaced its newsletter with an annual mailer that provides notice to employees of their rights under the CAA. This one-page mailer identifies the statutory rights provided employees by the CAA but does not include a feature article written by Members.

With this initiative, we seek to recreate the Member-authored feature article that was lost when we discontinued our newsletter. We will work with Member offices to develop articles that pertain to the subject matter of the work of the OOC and the substantive protections of the CAA. We will feature these articles on OOC's website twice a year.

G. Research procedures for the dissemination of educational material to public areas within the Congressional campus.

Though the web and email are preferred ways to disseminate educational information and materials, a large portion of the covered community does not have access to email or the web. In an effort to reach all of the covered community in a cost-efficient manner, the OOC will inquire about sharing our printed educational material with entities responsible for disseminating such material in public areas of the covered community: lounges, cafeterias, and lobbies of Congressional buildings. If appropriate, we will develop and implement protocols to disseminate OOC brochures, reports, and other printed material.

H. Emphasize technical assistance by utilizing the inspections process to explain hazards as they are identified.

We will strive to leverage all contact made with employing offices and employees during the inspections process to educate on the application of standards and to discuss or demonstrate potential abatement options.

We will continue to hold Opening Conferences prior to biennial and requestor-initiated inspections to discuss coordination of the inspections and what the inspections entail, and to explain how the OSH standards apply to a particular inspection.

At the end of each day of the biennial inspection, OOC inspectors will continue to review their findings with representatives of the employing office and the Office of the Architect of the Capitol. We will also continue to provide written reports with detailed findings to employing offices and the AOC's Building Superintendents after the inspection team completes its inspection of a given jurisdiction. Closing conferences will continue to be offered to employing offices to highlight the more serious hazards that inspectors identify, as well as those that they find more frequently. As a result, employing office staff will be in a position to address safety concerns more quickly and, in certain instances, institute preventive measures.

I. Create a link on OOC's website to media stories, studies, and reports pertaining to the work of OOC and the laws of the CAA.

The OOC will utilize its website as a repository of information for the covered community. Where an article, news story,

academic study, or agency report features information relevant to workplace rights, safety and health, or public access issues facing Congressional employing offices, the OOC will link to this information and include in the streaming mechanism of our website the ones where the feature specifically includes the OOC or the CAA.

J. Continue efforts to obtain email access to Senate employees as was done with House of Representative employees.

In the last Strategic Plan, one of OOC's main goals was to increase the awareness by the covered community of the rights and protections under the CAA as well as the services provided by the OOC. The OOC worked with its House oversight committee to obtain the capability to email directly House employees. This ability is significant in the sense that the CAA mandates direct communication between the OOC and covered employees, and emailing is not only a cost-efficient way to reach employees, but a survey conducted by the OOC found it was employees' preferred way to be contacted. Our success in the House leads OOC to continue its efforts with the Senate to obtain similar access so that Senate employees are equally aware of their rights, and the protections and services available to them under the CAA.

GOAL II:

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

The Agency is mandated by the Congressional Accountability Act to administer the substantive protections of the Act. One of the ways that we meet this responsibility is by processing claims that are filed pursuant to the protections of the Act: discrimination claims, OSHA claims, unfair labor practice charges, and other such claims. The Office of Compliance Procedural Rules set forth the parties' requirements for filing and the OOC's methods for processing claims. The OOC's infrastructure, however, provides the necessary resources for processing claims and administering the laws under the Act.

This goal focuses on strengthening the Agency's infrastructure to increase our ability to provide quality case administration and advancements.

A. Develop a plan/framework/protocols to implement an e-filing system.

Advancements in technology provide opportunities to streamline practices and procedures, and the OOC remains vigilant in ensuring our processes use current technologies. We seek to ensure our procedures are cost-efficient. In an age where "paperless" is the norm, we seek to reduce our paper consumption. We will explore the feasibility for developing an e-filing system for all of the cases we process: dispute resolution, OSH, ADA, and unfair labor practices. If it is feasible and appropriate to create an e-filing system for any/all of our programs, we will develop a case-processing framework for its implementation.

B. Build IT capability to allow improved applications on OOC's website, provide improved case management systems, and create the ability to implement an e-filing system.

Though the Agency's IT capability has seen great advancements in the last few fiscal years, we are still limited in certain respects. We will analyze our current IT capabilities and determine what upgrades are needed to support improvements to OOC's web applications to allow for increased user capabilities and efficiencies. We will also explore our internal IT needs to allow for the improvement of our case management systems. As part of this evaluation, we will identify the comprehensive case management needs for each program and determine whether a global system or individual case management systems would be more beneficial to the Agency. Finally, the OOC will determine what is technologically necessary from an IT perspective to support the anticipated e-filing system.

C. Efficiently and thoroughly conduct requestor-initiated safety and health inspections and investigate charges of ADA public access discrimination, conduct biennial risk-based OSH and ADA public access inspections, and investigate and prosecute OSHAct, ADA, and unfair labor practice violations.

These core statutory functions of the Office of General Counsel require continued effort. Budget cuts have significantly limited the OOC's ability to conduct these activities. To the extent our funding will permit, we will continue to prioritize inspector resources to requestor-initiated inspection cases, biennial inspections, LMR cases, ADA access barriers that pose the most serious OSH risks to Legislative Branch employees, and access barriers to visitors to Capitol Hill. Additional safety and health inspection staff and resources would allow us to expand our investigations and inspections of additional high-risk OSH operations and ADA barriers and lower-risk hazards and barriers. We would also be able to follow up with employing offices to assure

prompt and fully compliant abatement of high-risk hazards identified through inspections, and improve our requestor case investigations, allowing us to investigate cases more quickly, resulting in more prompt resolution and abatement of identified hazards.

D. Increase efforts to have Congress implement the Board of Directors' 102b recommendations.

Since 1996, the Board of Directors of the Office of Compliance has made biennial recommendations to Congress, pursuant to Section 102b of the Congressional Accountability Act, regarding the applicability of Federal law to the Legislative Branch. These recommendations have appeared in what has been called the Board of Directors' "102b Report", and most recently has been termed "Recommendations for Improvements to the Congressional Accountability Act." Over the years, the reports have seen little success in raising the discussion of the Board's recommendations. The Agency plans to improve the drafting and publication of this report so that it is innovative, forward-looking, and a living document. We will increase efforts to meet with interested stakeholders to explain and promote the Board's recommendations contained in the report. We intend to utilize the report as a strong tool in obtaining Congressional approval of the Board's recommendations, which include, among others:

- obtaining the authority to investigate all claims arising under the CAA;
- obtaining investigative subpoena authority for the Office of General Counsel;
- requiring training for employees and employers as in the Executive Branch and certain areas of the private sector; and
- mandating the posting of rights under the CAA.

E. Continue to explore the implementation of efficiencies and cost-savings tools in dispute resolution processes.

The Congressional Accountability Act required the Board of Directors to study and report on whether the protections afforded by the CAA, its regulations, and its procedures, should be applied to the Government Accountability Office (at the time of the study, the Government Accountability Office was called the General Accounting Office), the Government Printing Office, and the Library of Congress. The study, completed on December 31, 1996, focused on comprehensiveness and effectiveness of the above-named agencies' programs. The Board determined that, at the time, "the rights, protections, procedures, and relief afforded … [the employees of the above-named agencies] are, in general, comprehensive and effective when compared to those afforded other Legislative Branch employees covered under the CAA."[1] As "rights, protections, procedures, and relief" have changed since 1996 (by, e.g., passage of the Lilly Ledbetter Fair Pay Act, Genetic Information Nondiscrimination Act, amendments to the Fair Labor Standards Act), it is necessary to evaluate whether employees of the GAO, GPO, and the LOC still benefit from an enforcement framework that is comprehensive and effective. The OOC will assess whether the current "rights, protections, procedures, and relief" for GAO, GPO, and LOC employees are "comprehensive and effective," and make necessary recommendations to the Board of Directors that would advance those goals in as cost-effective a manner as possible.

GOAL III:

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

The Agency recognizes that the success of many of its efforts is dependent upon the relationships it builds. In order to provide useful services, we have to fully appreciate the needs of the community we serve. Sharing information about the programs we have available and understanding the needs of the community are fundamental to developing and providing services to our constituents. We especially note the importance of collaboration in furthering transparency in the work that we do. It is important that our processes be transparent in order to build confidence among our stakeholders that our programs are administered fairly.

Though building relationships was a component of our last Strategic Plan, we focused our outreach efforts on improving our written materials to make them more content-dynamic and professional-looking, and to garner reader interest from the outset. We improved the substance of our reports to make them more readable, so that their statistical and technical information is more easily understood. We also focused on enhancing our website in order to make it easier for the covered community and the public to access information about the CAA, OOC, and Board decisions.

Now that our written materials have been revised and our website enhanced, the OOC will focus on creating new relationships and building on existing ones to strengthen our foundation in the Congressional community. Building relationships within the covered community, creating an appreciation for our programs,

[1] Section 230 Study—Study of Laws, Regulations, and Procedures at the General Accounting Office, The Government Printing Office, and the Library of Congress, Prepared by the Board of Directors of the Office of Compliance, Pursuant to Section 230 of the Congressional Accountability Act of 1995, (PL 104-1), December 31, 1996, p.iii.

and partnering with different employing offices, associations, and organizations is necessary to reach our goals and achieve our mission.

We anticipate meeting this goal by means of the following:

A. Develop relationships with Member offices and increase contacts and visits.

   We intend to build relationships with Members in the DC, MD, and VA commuting areas. These Members have constituents who live and work in and around Capitol Hill. We want to ensure that these Members, as well as others, are aware of the services we provide their constituents.

B. Develop and maintain relationships with organizations of interest.

   As with the previous initiative, building relationships with organizations that show an interest in or have expertise in the subject matter covered by the CAA will further the OOC's efforts to advance the mission of the Agency. The OOC will develop relationships with advocacy groups that are supportive of the substantive protections contained in the CAA. We will reach out to Executive Branch agencies that perform work similar to the work of the OOC to gain support. The OOC will contact non-governmental organizations to determine their awareness of our agency and develop relationships with them. The OOC will reach out to employee interest groups and labor organizations to collaborate on best practices to educate the covered community about the rights and protections under the CAA.

C. Build on established relationships with oversight committees and appropriations committees.

   Over the years, the OOC has developed relationships with its oversight committees in the House and the Senate: Committee on House Administration, Senate Rules and Administration Committee, and Senate Homeland Security and Governmental Affairs Committee. We have also developed relationships with the staff on the House and Senate Appropriations Subcommittees on the Legislative Branch. We keep these staff apprised of the work that we do, inform them of our need for their assistance, and are responsive to their inquiries into OOC's activities. The OOC will maintain and build on these relationships to increase the support and understanding of the Agency and its mission.

D. Build and maintain relationships with the media to foster accurate and responsible reporting.

   Because the media is an important source of public information, building relationships with the media helps the Agency ensure accurate and fair coverage of OOC's reports, activities, and statistics. Because OOC's reports and information are provided to the public via its website, and because the Agency is responsible for enforcing anti-discrimination and safety and health laws on Capitol Hill, the media has, in the past, taken an interest in the work that we perform. As a result, stories about the OOC and its work have appeared in print media as well as on television, the web, and the radio. Developing, maintaining, and strengthening relationships with the media will not only help ensure the accuracy of the media's reporting, but will allow the OOC to meet its mandate of educating and informing the covered community of the rights and responsibilities under the CAA.

E. Share technical resources from outside agencies.

   In a time when budgets continue to be cut, economies of scale, shared services, and shared resources have become best practices in ensuring that agencies continue to meet their respective missions with limited funding. The OOC is no exception. With repeated cuts to our funding, OOC has had to be creative in ensuring that all of its responsibilities are met. To this end, the OOC will utilize the expertise of other Legislative Branch agencies, where appropriate, in contracting for services, addressing procurement needs, and arranging travel for employees. In addition, we will ensure that our core accounting services are being provided with the help of shared services from the Library of Congress.

GOAL IV:

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

During these tight fiscal times, the OOC has had to adjust how we do business: we have reorganized, reduced some services and eliminated others. We have restructured our priorities and have adjusted methods of providing our services so that we may continue to meet our mission despite decreased funding. OOC's programs have felt the impact of reduced funding over the last several fiscal years … and so have our staff. With fewer resources to conduct our business, OOC's staff have had to work harder in an effort to meet our mission. Our staff are our strongest resource, and we strive to provide tools for their continued professional development.

A. Involve staff in identifying individual training needs and availability of training by exploring low-to-no cost training

opportunities, partnering with other agencies where appropriate, and promoting in-house training and education sessions.

The Agency recognizes that maintaining a certain level of expertise requires continual professional education. Though current funding levels will not allow the Agency to offer a vast variety of training, there remain opportunities for staff to receive on-going training in their subject matter area. We will work with our staff to identify their training needs, and we will involve staff in our efforts to discover low-to-no cost training opportunities. As other Federal government agencies have felt the need to cut costs and bring training in-house, there may exist opportunities for the OOC to share in-house services with agencies of the Legislative Branch or Executive Branch. We will partner with other agencies, where appropriate, to share in their in-house training and provide support and assistance to the OOC to provide its own in-house training on topics of interest to OOC staff.

B. Identify positions where cross training and mentoring are appropriate and necessary to build capacity within the organization and ensure consistency in program operations by matching up mentors and individuals, developing protocols, and establishing concrete goals and outcomes for each mentoring relationship.

Recognizing the need to build institutional knowledge and to fortify its own staff as its strongest resource, OOC will coordinate among its managers to determine where cross-training and mentoring would be appropriate for certain staff to learn procedures, protocols, and substance of other programs within the Agency. OOC managers will identify these positions; match up mentors and individuals interested in and eligible for the program; develop protocols, concrete goals and outcomes; and oversee the mentoring relationships.

C. Identify wellness measures that would benefit OOC staff by exploring available wellness services from other agencies, discounted private wellness programs, or wellness fairs that offer free services to attendees; and by utilizing no-cost tools and materials available from OPM, other Federal agencies, and appropriate outside resources.

MEASURING SUCCESS

To determine the level of success achieved in the above-outlined goals, the Office of Compliance will monitor feedback received from its stakeholders: employees, employing offices, oversight and appropriations committees, labor organizations, and the public, to determine whether we have increased the level of awareness of our services and programs. Our initiatives involving social media will allow for more measureable data on contacts with the Agency. Tracking who accesses our Facebook page, for example, or the number of followers on Twitter will allow more accurate feedback than our current methods. An increased number of contacts to our office, requests for services, and requests for information will be indicators that the OOC has achieved a level of success in educating the covered community about their rights and responsibilities under the Congressional Accountability Act.

The OOC will see achievement under this plan when we have readied ourselves to utilize additional resources: developed plans to implement e-filing, improved case tracking, and more efficient case management systems. Once additional funding is provided to move forward with these initiatives, the OOC will be better positioned to implement them quickly and effectively. In addition, increased dialogue with Congressional stakeholders about the Board's 102b recommendations will be positive steps toward Congressional approval of the Board's recommendations.

We will evaluate the strength of relationships that we have created or enhanced within the Congressional community and with public interest groups to determine whether we have been successful in generating an interest in and appreciation for the work of the OOC. An increase in overall partnerships and strengthened relationships will measure the success of our outreach and our message of collaboration and transparency.

Finally, a survey measuring staff's level of satisfaction with their professional development will inform the OOC of its success in providing training, mentorship, and wellness initiatives to staff. The Agency will perform a baseline survey of staff satisfaction in these areas, and with the implementation of the initiatives outlined in Goal IV above, we will survey staff at the end of each fiscal year of the Plan to see a continued increase in satisfaction, or to maintain a level of 75% employee satisfaction.

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