

Congressional Accountability Act of 1995 Reform Act (S. ____)

Section-by-Section*

TITLE I – REFORM OF DISPUTE RESOLUTION PROCEDURES

Subtitle A – Reform of Procedures for Initiation and Resolution of Claims

Sec. 101. Description of Procedures Available for Consideration of Alleged Violations. Section 101 sets out the procedures for initiating and resolving alleged violation(s) of the Congressional Accountability Act (CAA).

- Mandatory counseling, mandatory mediation, and the 30 day “cooling off period” under the current process are eliminated.
- Covered employees are required to notify the Office of Congressional Workplace Rights (OCWR) of intent to file a claim and to file a claim within 180 days of the alleged violation.
- Mediation is available to the parties, but not required. Either party may opt out of mediation within 10 business days of a claim being filed.
- Upon opting out of mediation or the end of an unsuccessful the mediation period, a covered employee has 90 days to request a hearing or file a civil action in federal district court. Requesting a hearing ends the ability to file a civil action in federal district court. Filing a civil action ends the ability to request a hearing.
- Specifies that any party may retain counsel to protect their respective interests.

Sec. 102. Reform of Process for Initiation of Procedures. Section 102 implements a new process for filing claims for alleged violations.

- A claim must be filed with the Office of Congressional Workplace Rights (OCWR) within 180 days of the alleged violation to initiate the process. The claim must be in writing and under oath or affirmation.
- The employing office is notified within 3 business days of a claim being filed.
- Mediation is available to the parties, but not required. Either party may opt out of mediation within 10 business days of a claim being filed.
- OCWR is directed to establish an electronic reporting and tracking system that will be used to report and track claims and will be accessible by both parties.
- Reaffirms the ability of a covered employee to: contact OCWR or any other office for information; refer a matter to the respective Committees on Ethics; as well as to file in federal court.

Sec. 103. Availability of Mediation During Process. Section 103 defines the process for optional mediation to resolve claims.

- Mediation begins 10 business days after a claim is filed unless either party opts out.
- The period for mediation is 30 days and can be extended for 30 days if a request is made jointly by a covered employee and the employing office.
- Allows the parties to be separated during mediation if a covered employee requests separation.

Sec. 104. Hearings. Section 104 defines the hearing process and conforms the deadlines for filing a civil action.

- A covered employee has 90 days after opting out of mediation or after the mediation period ends to request a hearing with the Office of Congressional Workplace Rights or to file a civil action in federal district court.
- The hearing shall be commenced within 90 days of request which may be extended by 30 days upon agreement by both parties.
- A party may appeal decisions by hearing officers to the Board of Directors for review. Board decisions may be appealed to the U.S. Court of Appeals for the Federal Circuit.
- The effect of requesting a hearing ends the opportunity to file a civil action in federal district court.
- The effect of filing a civil action in district court ends the opportunity to request a hearing.

Subtitle B – Other Reforms

Sec. 111. Requiring Members of Congress to Reimburse Treasury for Damages Paid as Settlements and Awards for Certain Violations. Section 111 requires Members of Congress (including former Members who were in office at the time of the allegation) to repay the Settlement and Award Account for certain violations.

- Members are responsible for repayment of compensatory damages when the violation of the Congressional Accountability Act is harassment based on race, color, religion, sex, national origin, genetic information, age, disability, or veteran’s status.
- A hearing officer, judge, or the appropriate Ethics Committee is required to find that a Member personally harassed the claimant to initiate personal liability.
- Authorizes the Committee on House Administration and Committee on Rules and Administration to establish a plan to withhold compensation from a Member if the account is not repaid within 90 days.
- If the account is not repaid within 180 days, the Payroll Administrator, Office of Personnel Management, and Department of Treasury, working together, are authorized to transfer funds from a Member’s compensation and/or annuity.
- Reiterates a Member’s right to intervene in his or her personal capacity during mediation, hearing or civil action to protect his/her interest.
- Ensures the covered employee is not unduly burdened in depositions resulting from the intervention.

Sec. 112. Automatic Referral to Congressional Ethics Committees of Disposition of Certain Claims Alleging Violations of Congressional Accountability Act of 1995 Involving Members of Congress and Senior Staff. Section 112 authorizes an automatic referral to the House Committee on Ethics and Senate Select Committee on Ethics with respect to settlements and awards for discrimination and harassment claims by Members and Senior Staff.

- Referral occurs when there is an order to pay an award or settlement, including agreements resulting from mediation.
- Authorizes the Ethics Committee to have access to settlement agreements and hearing decisions.
- Requires the Ethics Committee to review, within 90 days, settlement agreements for claims alleging harassment that is perpetrated directly against a covered employee by a Member. The Ethics Committee will determine if an investigation is warranted.
- Following an investigation, the Ethics Committee may find that a Member personally harassed a covered employee, in which case personal liability and reporting requirements would be imposed.

- Prohibits the Ethics Committee from releasing the identity or position of an individual making allegation.

Sec. 113. Availability of Option to Request Remote Work Assignment or Paid Leave of Absence during Pendency of Procedures. Section 113 allows a covered employee to request a remote work assignment if an allegation involves a violation of part a of title II of the Congressional Accountability Act, which includes violations of employment discrimination, the Family Medical Leave Act, the Fair Labor Standards, and intimidation and reprisal.

- An employing office may permit a remote work assignment if the remote work assignment will materially reduce interactions between the covered employee and the person alleged to have violated the Act.
- If a covered employee’s responsibilities require on-site presence, an employee may request paid leave.
- Prohibits an employing office from using requests as a method of retaliation.
- Protects any collective bargaining agreements that are in place.
- Ensures that there is no impact on vacation or personal leave for covered employees granted accommodation under this section.

Sec. 114. Modification of Rules on Confidentiality of Proceedings. Section 114 makes technical changes to sections 416 (a) and (b) regarding confidentiality as it relates to filing a claim and information relating to mediation. The section includes a rule of construction indicating nothing in the section precludes a covered employee or employing office from disclosing factual information related to a claim.

Sec. 115. Reimbursement by Other Employing Offices of the Legislative Branch of Payments of Certain Awards and Settlements. Section 115 requires Legislative Branch agencies under the CAA to repay the Settlement and Award account as result of awards and settlements issued under sections 201(a) and 206(a). Repayment shall be made from the operating expenses of agency within 180 days. The Office of Congressional Workplace Rights is directed to establish procedures and timetables for repayment.

TITLE II – IMPROVING OPERATIONS OF OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

Sec. 201. Reports on Awards and Settlements. Section 201 requires the Office of Congressional Workplace Rights to report annually to Congress and to publish on their website all awards and settlements when members are found to be personally liable from the previous year.

- The report must include: the employing office; the provision of part a title II of the CAA that was the subject of the violation; and the amount of the award or settlement resulting from the violation.
- In cases of awards and settlements where the Member is personally responsible for repayment, the report will identify whether the Member has complied with repayment obligations.
- Requires the OCWR to submit a report within 30 days of enactment on all past payments made with public funds used to settle discrimination, harassment, and retaliation claims. The report is to include the amount paid and the source of funding.

Sec. 202. Workplace Climate Surveys of Employing Offices. Section 202 directs the Office of Congressional Workplace Rights to conduct a climate survey each Congress of employing offices of the House of Representatives, the Senate, and the Library of Congress on the workplace environment.

- The survey will collect data on sexual harassment and discrimination in congressional employment.
- Requires the OCWR to ensure all responses to the survey are anonymous and confidential and to consult with the respective House and Senate Committees on the survey including collecting and analyzing data.
- Requires OCWR to maintain confidentiality during the process and with the results.

Sec. 203. Record Retention. Section 203 requires the Office of Congressional Workplace Rights to establish and maintain a permanent recordkeeping program.

Sec. 204. Confidential Advisor. Section 204 establishes a confidential advisor in the Office of Congressional Workplace Rights to advise covered employees, including interns, detailees, and fellows, about employee rights under the Congressional Accountability Act.

- The confidential advisor must be an attorney in good standing with experience in employment law.
- The confidential advisor informs a covered employee about their rights under the CAA, the roles and responsibilities of the OCWR, and the option for pursuing a complaint with the appropriate Ethics Committee.
- The confidential advisor consults the covered employee on the merits of securing private counsel and helps the covered employee understand the procedures described in the CAA.

Sec. 205. GAO Study of Management Practices. Section 205 requires the GAO to update its review of the Office of Congressional Workplace Rights' management practices and effectiveness within 180 days. The last GAO study was conducted in 2004.

Sec. 206. GAO Audit of Cybersecurity. Section 206 requires GAO to conduct an audit of the Office of Congressional Workplace Rights' cyber security systems and practices within 180 days.

TITLE III – MISCELLANEOUS REFORMS TO THE CAA

Sec. 301. Application of Genetic Information Nondiscrimination Act of 2008. Section 301 applies the Genetic Nondiscrimination Act of 2008 to section 201(a)(1) discrimination and related retaliation under section 207. Genetic information refers to an individual's genetic tests, genetic tests of an individual's family members, and manifestation of a disease or disorder in family members.

Sec. 302. Extension to Unpaid Staff of Rights and Protections against Employment Discrimination. Section 302 extends coverage of the rights and protections established under the CAA to unpaid interns, fellows and detailees.

Sec. 303. Provisions Relating to Instrumentalities. Section 303 makes technical corrections related to the former Office of Technology Assessment and Library of Congress.

Sec. 304. Notices. Section 304 requires employing offices to post notices that describe the rights, protections, and procedures applicable to covered employees under the Congressional Accountability Act.

Sec. 305. Clarification of Coverage of Employees of Stennis Center and Helsinki and China Commissions.

Section 305 extends covered employee status to employees of the Stennis Center and Helsinki and China Commissions. The section establishes employing office status for the Commissions, which is contingent on whether the House or Senate maintains the Chairmanship. Section 305 also sets out the process for approving the disposition of claims against the Commissions as employing offices.

Sec. 306. Training and Education Programs of Other Employing Offices. Section 306 directs legislative branch agencies to establish programs of training and education for covered employees on the rights and protections under the CAA.

Sec. 307. Support for Out-of-Area Covered Employees. Section 307 requires equitable access to the Office of Workplace Rights services for covered employees outside the Washington, D.C., area.

Sec. 308. Renaming Office of Compliance as Office of Congressional Workplace Rights. Section 308 renames Office of Compliance as the Office of Congressional Workplace Rights.

Title IV – Effective Date

Sec. 401. Effective Date. The section specifies the amendments made in this Act are effective 180 days after enactment. In addition, the bill specifies that nothing in the Act or amendment is intended to impact current proceedings.