

115TH CONGRESS  
1ST SESSION

# H. R. 4396

To amend the Congressional Accountability Act of 1995 to reform the procedures provided under such Act for the investigation and resolution of allegations that employing offices of the legislative branch have violated the rights and protections provided to their employees under such Act, including protections against sexual harassment, to require the updating of programs of sexual harassment prevention and response training in employment, to institute biennial employment discrimination climate surveys, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2017

Ms. SPEIER (for herself, Mr. COSTELLO of Pennsylvania, Ms. KUSTER of New Hampshire, Mr. POLIQUIN, Mr. FITZPATRICK, and Mr. RASKIN) introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

To amend the Congressional Accountability Act of 1995 to reform the procedures provided under such Act for the investigation and resolution of allegations that employing offices of the legislative branch have violated the rights and protections provided to their employees under such Act, including protections against sexual harassment, to require the updating of programs of sexual harassment prevention and response training in employment, to institute biennial employment discrimination climate surveys, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF**  
 4 **CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
 6 “Member and Employee Training and Oversight On Con-  
 7 gress Act” or the “ME TOO Congress Act”.

8 (b) REFERENCES IN ACT.—Except as otherwise ex-  
 9 pressly provided, whenever in this Act an amendment is  
 10 expressed in terms of an amendment to or repeal of a sec-  
 11 tion or other provision, the reference shall be considered  
 12 to be made to that section or other provision of the Con-  
 13 gressional Accountability Act of 1995 (2 U.S.C. 1301 et  
 14 seq.).

15 (c) TABLE OF CONTENTS.—The table of contents of  
 16 this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

**TITLE I—REFORM OF PROCEDURES FOR INVESTIGATION AND  
 RESOLUTION OF COMPLAINTS**

Sec. 101. Waiving counseling and mediation as prerequisite for filing of com-  
 plaint or civil action.

Sec. 102. Separation of investigative and adjudicative roles in hearings.

Sec. 103. Victims’ Counsel.

Sec. 104. Prohibiting imposition of nondisclosure agreements.

Sec. 105. Availability of remote work assignment or paid leave of absence dur-  
 ing pendency of procedures.

Sec. 106. Electronic reporting system.

Sec. 107. Requiring parties to be separated during mediation at request of em-  
 ployee.

Sec. 108. Deadline for completion of hearings.

Sec. 109. Clarification of authority of parties to reach agreements without ap-  
 proval of congressional committees.

Sec. 110. Modification of rules on confidentiality of proceedings.

**TITLE II—IMPROVING TRAINING AND TRANSPARENCY**

Sec. 201. Requirements for programs of sexual harassment prevention and response training in employment.

Sec. 202. Personal liability of Members of Congress for payment of settlements and awards.

Sec. 203. Reports on complaints and payments.

Sec. 204. Employment discrimination climate surveys of Members and employees of Congress.

#### TITLE III—MISCELLANEOUS REFORMS

Sec. 301. Extension to unpaid staff of rights and protections against employment discrimination.

Sec. 302. Application of whistleblower protection rules.

Sec. 303. Renaming Office of Compliance as Office of Congressional Workplace Rights.

#### TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

## **1 TITLE I—REFORM OF PROCE- 2 DURES FOR INVESTIGATION 3 AND RESOLUTION OF COM- 4 PLANTS**

### **5 SEC. 101. WAIVING COUNSELING AND MEDIATION AS PRE- 6 REQUISITE FOR FILING OF COMPLAINT OR 7 CIVIL ACTION.**

8 (a) WAIVING COUNSELING; PERMITTING INITIAL RE-  
9 QUEST TO BE MADE ANONYMOUSLY.—The first sentence  
10 of section 402(a) (2 U.S.C. 1402(a)) is amended to read  
11 as follows: “A covered employee alleging a violation of law  
12 made applicable under part A of title II may, at the option  
13 of the covered employee, request counseling by the Office,  
14 and may make the request anonymously.”.

15 (b) WAIVING MEDIATION.—Section 403(a) (2 U.S.C.  
16 1403(a)) is amended to read as follows:

1       “(a) INITIATION.—In the case of a covered employee  
 2 who alleged a violation of a law and who requested coun-  
 3 seling by the Office under section 402(a), not later than  
 4 15 days after receipt by the employee of notice of the end  
 5 of the counseling period under such section, the employee  
 6 may, at the option of the employee, file a request for medi-  
 7 ation with the Office.”.

8       (c) TIME FOR ELECTION OF PROCEEDING; PERMIT-  
 9 TING INITIAL ELECTION TO BE MADE ANONYMOUSLY.—  
 10 Section 404 (2 U.S.C. 1404) is amended to read as fol-  
 11 lows:

12   **“SEC. 404. ELECTION OF PROCEEDING.**

13       “(a) ELECTION.—Not later than the applicable dead-  
 14 line under subsection (b), a covered employee alleging a  
 15 violation of a law made applicable under part A of title  
 16 II may either—

17               “(1) file a complaint with the Office in accord-  
 18 ance with section 405; or

19               “(2) file a civil action in accordance with sec-  
 20 tion 408 in the United States district court for the  
 21 district in which the employee is employed or for the  
 22 District of Columbia.

23       “(b) APPLICABLE DEADLINE.—The applicable dead-  
 24 line under this subsection is—

1 “(1) in the case of a covered employee who re-  
 2 quests counseling by the Office under section 402  
 3 but who does not request mediation under section  
 4 403, not later than 90 days after the end of the pe-  
 5 riod of counseling under section 402;

6 “(2) in the case of a covered employee who re-  
 7 quests counseling by the Office under section 402  
 8 and mediation under section 403, not later than 90  
 9 days after the end of the period of mediation under  
 10 section 403; or

11 “(3) in the case of any other covered employee,  
 12 not later than 180 days after the date of the alleged  
 13 violation.”.

14 (d) CONFORMING AMENDMENT.—Section 405(a) (2  
 15 U.S.C. 1405(a)) is amended by striking “, upon the com-  
 16 pletion of mediation under section 403,”.

17 **SEC. 102. SEPARATION OF INVESTIGATIVE AND ADJUDICA-**  
 18 **TIVE ROLES IN HEARINGS.**

19 (a) USE OF SEPARATE INVESTIGATIVE AUTHOR-  
 20 ITY.—Section 405(e) (2 U.S.C. 1405(e)) is amended to  
 21 read as follows:

22 “(e) INVESTIGATIVE AUTHORITY.—

23 “(1) USE OF SEPARATE AUTHORITY TO CON-  
 24 DUCT INVESTIGATIONS.—The investigation of any  
 25 complaint filed under this section shall be carried

1 out by an investigative authority assigned by the  
2 Board, who may be an employee of the Office or a  
3 contractor designated by the Office for purposes of  
4 carrying out investigations under this section, except  
5 that the hearing officer appointed to consider the  
6 complaint may not serve as the investigative author-  
7 ity with respect to the complaint.

8 “(2) TYPES OF INVESTIGATIONS AUTHOR-  
9 IZED.—

10 “(A) INITIAL STATEMENT.—The investiga-  
11 tive authority assigned to investigate a com-  
12 plaint may require the covered employee who  
13 filed the complaint to provide an initial state-  
14 ment which includes the following information:

15 “(i) A statement of each specific harm  
16 relating to the complaint that the employee  
17 has suffered and the date on which each  
18 harm occurred.

19 “(ii) For each such harm, a statement  
20 specifying the act, policy or practice which  
21 is alleged to be in violation of part A of  
22 title II.

23 “(iii) For each act, policy, or practice  
24 alleged to have harmed the covered em-  
25 ployee, a statement of the facts which led

1           the person claiming to be aggrieved to be-  
2           lieve that the act, policy or practice is in  
3           violation of part A of title II.

4           “(B) FACT-FINDING CONFERENCE WITH  
5           PARTIES TO THE COMPLAINT.—As part of its  
6           investigation of a complaint, the investigative  
7           authority may require a fact-finding conference  
8           with the parties in order to define the issues  
9           arising from the complaint, to determine which  
10          elements of the complaint are undisputed, to re-  
11          solve those issues that can be resolved, and to  
12          ascertain whether there is a basis for negotiated  
13          settlement of the complaint. At the request of  
14          the covered employee involved, the investigative  
15          authority shall ensure that the parties are sepa-  
16          rated during this conference.

17          “(C) OTHER FORMS OF INVESTIGATION.—  
18          In addition to the types of investigative activity  
19          described in subparagraphs (A) and (B), the in-  
20          vestigative authority may carry out such other  
21          types of investigative activity with respect to a  
22          complaint as it considers appropriate, including  
23          prehearing discovery and the issuance of sub-  
24          poenas in accordance with subsection (f).”.

1 (b) CONFORMING AMENDMENTS RELATING TO SUB-  
 2 POENA AUTHORITY.—Section 405(f) (2 U.S.C. 1405(f))  
 3 is amended—

4 (1) in paragraph (1), by striking “a hearing of-  
 5 ficer may issue subpoenas” and inserting “an inves-  
 6 tigative authority under subsection (e) may issue  
 7 subpoenas”; and

8 (2) in paragraph (2), by striking “in connection  
 9 with a proceeding before a hearing officer” and in-  
 10 serting “in connection with a complaint under this  
 11 section”.

12 **SEC. 103. VICTIMS’ COUNSEL.**

13 (a) AVAILABILITY OF VICTIMS’ COUNSEL.—Title IV  
 14 (2 U.S.C. 1401 et seq.) is amended by inserting after sec-  
 15 tion 407 the following new section:

16 **“SEC. 407A. VICTIMS’ COUNSEL.**

17 **“(a) AVAILABILITY OF COUNSEL.—**

18 **“(1) IN GENERAL.—**A covered employee who al-  
 19 leges a violation of part A of title II shall be offered  
 20 the option of receiving assistance from a Victims’  
 21 Counsel under this section upon—

22 **“(A)** the employee’s request for counseling  
 23 by the Office under section 402, in the case of  
 24 a covered employee who makes such a request;  
 25 or



1           “(B) the filing by the employee of a com-  
2           plaint with the Office in accordance with sec-  
3           tion 405, in the case of a covered employee who  
4           does not make a request for counseling by the  
5           Office under section 402.

6           “(2) TIMING OF PROVIDING OPTION TO RE-  
7           CEIVE ASSISTANCE.—Prior to requesting any state-  
8           ment from an individual described in paragraph (1)  
9           regarding the allegation made by the individual (in-  
10          cluding an individual who makes the allegation  
11          anonymously in requesting counseling under section  
12          402), or conducting any other form of investigation  
13          of the allegation, the Office shall notify the indi-  
14          vidual of the availability of assistance from a Vic-  
15          tims’ Counsel under this section.

16          “(3) CONTINUING AVAILABILITY OF ASSIST-  
17          ANCE.—The Office shall inform an individual de-  
18          scribed in paragraph (1) that if the individual de-  
19          clines the assistance of a Victims’ Counsel, in whole  
20          or in part, at the time the assistance is offered  
21          under paragraph (1), the individual may subse-  
22          quently request such assistance and such assistance  
23          will be provided to the individual.

24          “(b) DESIGNATION.—

1           “(1) IN GENERAL.—The Board shall designate  
2       legal counsel, to be known as ‘Victims’ Counsel’,  
3       to—

4           “(A) provide legal assistance in accordance  
5       with this section to a covered employee who al-  
6       leges a violation of part A of title II; and

7           “(B) provide counseling by the Office  
8       under section 402 for a covered employee who  
9       alleges a violation of part A of title II and who  
10      requests counseling under such section.

11          “(2) QUALIFICATIONS.—An individual may not  
12      be designated as a Victims’ Counsel under this sec-  
13      tion unless the individual—

14          “(A) is an attorney who is a member of  
15      the bar of a Federal court or of the highest  
16      court of a State; and

17          “(B) is certified as competent to be des-  
18      ignated as a Victims’ Counsel by the Executive  
19      Director.

20          “(3) TRAINING REQUIREMENTS.—The Office  
21      shall—

22          “(A) establish the baseline training re-  
23      quirements for a Victims’ Counsel; and

1           “(B) develop a policy to standardize the  
2           time period within which a Victims’ Counsel re-  
3           ceives training.

4           “(4) AUTHORITY TO PROVIDE ASSISTANCE IN  
5           ANY JURISDICTION.—Notwithstanding any law re-  
6           garding the licensure of attorneys, a Victims’ Coun-  
7           sel who is authorized to provide assistance under  
8           this section is authorized to provide that assistance  
9           in any jurisdiction, subject to such regulations as  
10          may be prescribed by the Office.

11          “(c) TYPES OF LEGAL ASSISTANCE AUTHORIZED.—  
12          The types of legal assistance that a Victims’ Counsel may  
13          provide to a covered employee who alleges a violation of  
14          part A of title II include the following:

15               “(1) Legal consultation regarding potential li-  
16               ability, including criminal liability, arising from or in  
17               relation to the circumstances surrounding the al-  
18               leged violation and the covered employee’s rights  
19               under this Act.

20               “(2) Legal consultation regarding the respon-  
21               sibilities and support provided to the covered em-  
22               ployee under this Act.

23               “(3) Legal consultation regarding the potential  
24               for civil litigation against other parties (other than  
25               the United States) arising from the alleged violation.

1           “(4) Legal consultation regarding procedures  
2           under this Act and procedures applicable to civil ac-  
3           tions arising from the alleged violation, including—

4                   “(A) the roles and responsibilities of the  
5           Office, the House Employment Counsel, and  
6           similar authorities;

7                   “(B) any proceedings conducted under this  
8           Act or pursuant to a civil action which the cov-  
9           ered employee may observe;

10                  “(C) the authority of a hearing officer to  
11           compel cooperation and testimony under pro-  
12           ceedings held under section 405; and

13                  “(D) the covered employee’s duties relating  
14           to such proceedings, including the responsibility  
15           to testify.

16           “(5) Representing the covered employee at any  
17           proceedings in connection with the complaint, other  
18           than a civil action under section 406.

19           “(6) Legal consultation and assistance—

20                   “(A) in personal civil legal matters related  
21           to the covered employee’s complaint (other than  
22           a civil action under section 406);

23                   “(B) in any proceedings of the Office, the  
24           Committee on Ethics of the House of Rep-  
25           resentatives (including the Office of Congres-

1           sional Ethics), the Select Committee on Ethics  
2           of the Senate, or any other administrative or  
3           judicial body related to the covered employee’s  
4           complaint;

5           “(C) in understanding the availability of,  
6           and obtaining any protections offered by, pro-  
7           tecting or restraining orders; and

8           “(D) in understanding the eligibility and  
9           requirements for obtaining any employment or  
10          other benefits under State and Federal victims’  
11          compensation programs.

12       “(d) NATURE OF RELATIONSHIP.—The relationship  
13       between a Victims’ Counsel and a covered employee in the  
14       provision of legal advice and assistance under this section  
15       shall be the relationship between an attorney and client”.

16       (b) CONFORMING AMENDMENT RELATING TO RE-  
17       SPONSIBILITY OF VICTIMS’ COUNSEL TO CARRY OUT  
18       COUNSELING.—Section 402 (2 U.S.C. 1402) is amended  
19       by adding at the end the following new subsection:

20       “(d) ROLE OF VICTIMS’ COUNSEL.—If a covered em-  
21       ployee who requests counseling under this section also re-  
22       quested the assistance of a Victims’ Counsel under section  
23       407A, the Victims’ Counsel assigned to provide assistance  
24       to the employee shall carry out the counseling for the Of-  
25       fice under this section.”.

1 (c) CLERICAL AMENDMENT.—The table of contents  
 2 is amended by inserting after the item relating to section  
 3 407 the following new item:

“Sec. 407A. Victims’ Counsel.”.

4 **SEC. 104. PROHIBITING IMPOSITION OF NONDISCLOSURE**  
 5 **AGREEMENTS.**

6 Section 401 (2 U.S.C. 1401) is amended—

7 (1) by striking “Except as otherwise provided”  
 8 and inserting “(a) PROCEDURES AVAILABLE.—Ex-  
 9 cept as otherwise provided”; and

10 (2) by adding at the end the following new sub-  
 11 section:

12 “(b) PROHIBITING IMPOSITION OF NONDISCLOSURE  
 13 AGREEMENTS AS PREREQUISITE FOR PROCEDURES.—

14 “(1) IN GENERAL.—A nondisclosure agreement  
 15 may not be imposed on any party as a condition of  
 16 the initiation of any of the procedures available  
 17 under this title for consideration of a violation of  
 18 part A of title II unless the duration of the agree-  
 19 ment is for a finite period of time agreed to by all  
 20 of the parties involved, including the covered em-  
 21 ployee and the employing office.

22 “(2) EXCEPTIONS.—Nothing in paragraph (1)  
 23 may be construed to prohibit the parties to any pro-  
 24 cedure available under this title from entering into—

1           “(A) a nondisclosure agreement agreed to  
 2           by all of the parties involved regarding the con-  
 3           tents of any mediation conducted under section  
 4           403, so long as the agreement does not apply  
 5           after the conclusion of the mediation; or

6           “(B) a nondisclosure agreement agreed to  
 7           by all of the parties involved as part of the set-  
 8           tlement of any complaint filed with the Office  
 9           in accordance with section 405 or any civil ac-  
 10          tion initiated in accordance with section 408.”.

11 **SEC. 105. AVAILABILITY OF REMOTE WORK ASSIGNMENT**  
 12 **OR PAID LEAVE OF ABSENCE DURING PEND-**  
 13 **ENCY OF PROCEDURES.**

14          Section 401 (2 U.S.C. 1401), as amended by section  
 15 104, is further amended by adding at the end the following  
 16 new subsection:

17          “(c) AVAILABILITY OF REMOTE WORK ASSIGNMENT  
 18 OR PAID LEAVE OF ABSENCE DURING PENDENCY OF  
 19 PROCEDURES.—

20               “(1) REQUIREMENTS FOR EMPLOYING OF-  
 21 FICES.—

22               “(A) REMOTE WORK ASSIGNMENT.—At the  
 23 request of a covered employee who alleges a vio-  
 24 lation of part A of title II by the covered em-  
 25 ployee’s employing office, during the pendency

1 of any of the procedures available under this  
2 title for consideration of the violation, the em-  
3 ploying office shall permit the covered employee  
4 to carry out the employee's responsibilities from  
5 a remote location instead of from the location  
6 of the employing office.

7 “(B) EXCEPTION FOR WORK ASSIGNMENTS  
8 REQUIRED TO BE CARRIED OUT ONSITE.—If, in  
9 the determination of the covered employee's em-  
10 ploying office, a covered employee who makes a  
11 request under this paragraph cannot carry out  
12 the employee's responsibilities from a remote lo-  
13 cation, the employing office shall grant paid  
14 leave of absence to a covered employee during  
15 the pendency of the procedures available under  
16 this title for the covered employee.

17 “(2) EXCLUSION FROM CAP ON NUMBER OF  
18 EMPLOYEES OF OFFICE OF MEMBER OR COMMITTEE  
19 OF THE HOUSE OF REPRESENTATIVES.—If the office  
20 of a Member or committee of the House of Rep-  
21 resentatives grants a covered employee of such office  
22 a paid leave of absence under paragraph (1), during  
23 the period in which the employee is on the paid leave  
24 of absence, the employee shall not be counted among  
25 the number of employees of the office—



1           “(A) in the case of the office of a Member  
 2           of the House, for purposes of section 104(a) of  
 3           the House of Representatives Administrative  
 4           Reform Technical Corrections Act (2 U.S.C.  
 5           5321(a)); or

6           “(B) in the case of the office of a com-  
 7           mittee of the House, for purposes of any rule  
 8           or regulation of the House which governs the  
 9           number of employees the committee may ap-  
 10          point.

11          “(3) EXCEPTION FOR ARRANGEMENTS SUBJECT  
 12          TO COLLECTIVE BARGAINING AGREEMENTS.—Para-  
 13          graph (1) does not apply to the extent that it is in-  
 14          consistent with the terms and conditions of any col-  
 15          lective bargaining agreement which is in effect with  
 16          respect to an employing office.”.

17 **SEC. 106. ELECTRONIC REPORTING SYSTEM.**

18          Section 401 (2 U.S.C. 1401), as amended by section  
 19          104 and section 105, is further amended by adding at the  
 20          end the following new subsection:

21          “(d) USE OF ELECTRONIC REPORTING SYSTEM.—  
 22          The Office shall establish and operate an electronic report-  
 23          ing system through which a covered employee may initiate  
 24          a proceeding under this title, and which will keep an elec-

1 tronic record of the date and time at which the proceeding  
2 is initiated.”.

3 **SEC. 107. REQUIRING PARTIES TO BE SEPARATED DURING**  
4 **MEDIATION AT REQUEST OF EMPLOYEE.**

5 Section 403(b)(2) (2 U.S.C. 1403(b)(2)) is amended  
6 by striking “meetings with the parties separately or joint-  
7 ly” and inserting “meetings with the parties during which,  
8 at the request of the covered employee, the parties shall  
9 be separated,”.

10 **SEC. 108. DEADLINE FOR COMPLETION OF HEARINGS.**

11 (a) IN GENERAL.—Section 405(g) (2 U.S.C.  
12 1405(g)) is amended by striking “90 days after the con-  
13 clusion of the hearing” and inserting “the earlier of 90  
14 days after the conclusion of the hearing or 180 days after  
15 the filing of the complaint under subsection (a)”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall apply with respect to complaints filed  
18 under section 405 of the Congressional Accountability Act  
19 (2 U.S.C. 1405) on or after the date of the enactment  
20 of this Act.

21 **SEC. 109. CLARIFICATION OF AUTHORITY OF PARTIES TO**  
22 **REACH AGREEMENTS WITHOUT APPROVAL**  
23 **OF CONGRESSIONAL COMMITTEES.**

24 (a) IN GENERAL.—Section 414 (2 U.S.C. 1414) is  
25 amended—

1 (1) by striking “Any settlement” and inserting  
 2 “(a) CRITERIA FOR SETTLEMENT.—Any settle-  
 3 ment”; and

4 (2) by adding at the end the following new sub-  
 5 section:

6 “(b) AUTHORITY OF PARTIES TO REACH AGREE-  
 7 MENTS WITHOUT SPECIFIC APPROVAL OF COMMIT-  
 8 TEES.—Any counsel representing an employing office in  
 9 any proceeding referred to in subsection (a) has the au-  
 10 thority to negotiate the terms and conditions of any settle-  
 11 ment of any such proceeding, including making the final  
 12 determination of any amount paid to any party, without  
 13 the approval of any committee of Congress.”.

14 (b) CONFORMING AMENDMENT RELATING TO AU-  
 15 THORITY OF COMMITTEES TO DETERMINE RANGE OF AP-  
 16 PROPRIATE SETTLEMENT AMOUNTS.—Section 414(a) (2  
 17 U.S.C. 1414(a)), as amended by subsection (a), is amend-  
 18 ed by striking the period at the end and inserting the fol-  
 19 lowing: “, including rules setting forth a range of appro-  
 20 priate settlement amounts for various types of violations  
 21 of this Act or any amendment made by this Act.”.

22 **SEC. 110. MODIFICATION OF RULES ON CONFIDENTIALITY**  
 23 **OF PROCEEDINGS.**

24 (a) COUNSELING.—Section 416(a) (2 U.S.C.  
 25 1416(a)) is amended by striking “All counseling” and in-

1   serting “At the request of the covered employee who re-  
2   quests counseling, all counseling”.

3       (b) **MEDIATION.**—Section 416(b) (2 U.S.C. 1416(b))  
4   is amended by striking “All mediation” and inserting “All  
5   information discussed or disclosed in the course of any me-  
6   diation”.

## 7   **TITLE II—IMPROVING TRAINING** 8       **AND TRANSPARENCY**

### 9   **SEC. 201. REQUIREMENTS FOR PROGRAMS OF SEXUAL** 10       **HARASSMENT PREVENTION AND RESPONSE** 11       **TRAINING IN EMPLOYMENT.**

12       (a) **REQUIREMENTS FOR PROGRAMS.**—Section 301  
13   (2 U.S.C. 1381) is amended by adding at the end the fol-  
14   lowing new subsection:

15       “(l) **SPECIAL REQUIREMENTS FOR PROGRAMS OF**  
16   **SEXUAL HARASSMENT PREVENTION AND RESPONSE**  
17   **TRAINING IN EMPLOYMENT.**—

18       “(1) **ELEMENTS OF PROGRAM.**—The Office  
19   shall include among the programs carried out under  
20   subsection (h) a program of sexual harassment pre-  
21   vention and response training in employment which  
22   provides at least one hour of training and which in-  
23   cludes the following elements:

24       “(A) Practical examples, derived from situ-  
25   ations easily recognizable to employees of the

1           employing offices involved, which are aimed at  
2           instructing supervisors in the prevention of har-  
3           assment, discrimination, and retaliation, and at  
4           instructing employees in how to recognize situa-  
5           tions of harassment.

6           “(B) Information regarding the rights of  
7           employees, the options for reporting complaints,  
8           and an overview of the dispute resolution proc-  
9           ess.

10          “(C) Training regarding bystander inter-  
11          vention.

12          “(D) An overview of the consequences for  
13          perpetrating sexual harassment.

14          “(E) Information regarding anti-retaliation  
15          policies for witnesses to or individuals who ex-  
16          perience sexual harassment and come forward  
17          to report it.

18          “(F) Interactive methods of instruction  
19          which apply adult learning methodology.

20          “(2) ADDITIONAL INFORMATION FOR HEADS OF  
21          OFFICES AND SENIOR STAFF.—

22          “(A) INFORMATION DESCRIBED.—In addi-  
23          tion to the program described in paragraph (1),  
24          the Office shall provide specific instruction to  
25          the heads of employing offices (including Mem-

1           bers of Congress) and to the senior staff of em-  
2           ploying offices on the following issues relating  
3           to sexual harassment:

4                   “(i) The steps such an individual  
5                   should take upon becoming aware of an in-  
6                   cident of sexual harassment involving an  
7                   employee of the employing office.

8                   “(ii) The role of the Office in inves-  
9                   tigating and responding to incidents of sex-  
10                  ual harassment.

11                  “(iii) The assistance such an indi-  
12                  vidual may provide to an employee of the  
13                  employing office who wishes to report an  
14                  alleged incident of sexual harassment to  
15                  the Office for action under title IV, includ-  
16                  ing informing the employee of the employ-  
17                  ee’s rights and protections under such  
18                  title, the employee’s options for reporting  
19                  the incident, and an overview of the proce-  
20                  dures applicable under such title.

21                  “(iv) The potential liability (including  
22                  financial liability) which may arise from  
23                  such an incident of sexual harassment, in-  
24                  cluding from a determination that the fail-  
25                  ure of the employing office to respond ap-

1                   appropriately to such an incident is evidence  
2                   of a hostile work environment in the em-  
3                   ploying office.

4                   “(B) SENIOR STAFF DEFINED.—In this  
5                   paragraph, the term ‘senior staff’ means any  
6                   individual who is required to file a report under  
7                   title I of the Ethics in Government Act of 1978  
8                   (5 U.S.C. App. 101 et seq.).

9                   “(3) CONSULTATION.—In carrying out the pro-  
10                  gram described in paragraph (1), the Office shall  
11                  consult with Workplaces Respond to Domestic and  
12                  Sexual Violence: A National Resource Center (also  
13                  known as ‘Workplaces Respond’), the nonprofit non-  
14                  governmental entity described in section 41501 of  
15                  the Violence Against Women Act of 1994 (34 U.S.C.  
16                  12501).

17                  “(4) DEFINITION.—For purposes of this sub-  
18                  section, ‘sexual harassment’ means any conduct di-  
19                  rected at an individual which consists of unwelcome  
20                  sexual advances, requests for sexual favors, any  
21                  other conduct of a sexual nature, or conduct based  
22                  on the individual’s sex if such conduct has the pur-  
23                  pose or effect of interfering with the individual’s  
24                  work performance or creating an intimidating, hos-  
25                  tile, or offensive working environment, or if submis-

1 sion to or rejection of such conduct by the individual  
 2 is used as the basis for employment decisions affect-  
 3 ing the individual, or if submission by the individual  
 4 to such conduct is made either explicitly or implicitly  
 5 a term or condition of the individual's employment.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
 7 subsection (a) shall take effect 180 days after the date  
 8 of the enactment of this Act.

9 **SEC. 202. PERSONAL LIABILITY OF MEMBERS OF CON-**  
 10 **GRESS FOR PAYMENT OF SETTLEMENTS AND**  
 11 **AWARDS.**

12 Section 415 (2 U.S.C. 1415) is amended by adding  
 13 at the end the following new subsection:

14 “(d) PERSONAL LIABILITY OF MEMBERS OF CON-  
 15 GRESS FOR PAYMENT OF SETTLEMENTS AND AWARDS.—  
 16 If a payment is made from the account described in sub-  
 17 section (a) for an award or settlement resulting from a  
 18 violation of part A of title II which was committed person-  
 19 ally by a Member of Congress, the Member who committed  
 20 the violation shall reimburse the account for the amount  
 21 of the award or settlement.”.

22 **SEC. 203. REPORTS ON COMPLAINTS AND PAYMENTS.**

23 (a) REQUIRING SUBMISSION AND PUBLICATION OF  
 24 REPORT.—Section 301(h) (2 U.S.C. 1381(h)) is amend-  
 25 ed—



1           (1) by striking “and” at the end of paragraph  
2           (2);

3           (2) by striking the period at the end of para-  
4           graph (3) and inserting “; and”; and

5           (3) by adding at the end the following new  
6           paragraph:

7           “(4) in addition to compiling and publishing the  
8           statistics described in paragraph (3), not later than  
9           60 days after the end of each calendar year, submit  
10          to Congress and publish on the Office’s public  
11          website a report identifying each employing office  
12          with respect to which an award or settlement was  
13          paid during the previous year as the result of an al-  
14          legation made of a violation of part A of title II, the  
15          number of such allegations made against the em-  
16          ploying office, and the amount of the award or set-  
17          tlement, except that such report may not disclose the  
18          identity of an individual who made such an allega-  
19          tion at any time.”.

20          (b) EFFECTIVE DATE.—The amendment made by  
21          subsection (a) shall apply with respect to 2017 and each  
22          succeeding year.

1 **SEC. 204. EMPLOYMENT DISCRIMINATION CLIMATE SUR-**  
2 **VEYS OF MEMBERS AND EMPLOYEES OF CON-**  
3 **GRESS.**

4 (a) REQUIRING SURVEYS.—Title III (2 U.S.C. 1381  
5 et seq.) is amended by adding at the end the following  
6 new section:

7 **“SEC. 307. EMPLOYMENT DISCRIMINATION CLIMATE SUR-**  
8 **VEYS OF MEMBERS AND EMPLOYEES OF CON-**  
9 **GRESS.**

10 “(a) REQUIREMENT TO CONDUCT SURVEYS.—Not  
11 later than 180 days after the date of the enactment of  
12 the ME TOO Congress Act, and every 2 years thereafter,  
13 the Office shall conduct a survey of Members of Congress  
14 and congressional staff regarding employment discrimina-  
15 tion in congressional employment, including a survey of  
16 the following:

17 “(1) The prevalence of violations of part A of  
18 title II by offices of the House of Representatives  
19 and the Senate.

20 “(2) The extent to which such violations arise  
21 from discrimination on the basis of sex, race, na-  
22 tional origin, sexual orientation, gender identity, dis-  
23 ability, and other demographic characteristics.

24 “(3) The existence of a hostile work environ-  
25 ment in offices of Congress.

1           “(4) Whether congressional staff are able to ef-  
2           fectively exercise the rights and protections provided  
3           under this Act, including the effectiveness of the  
4           procedures applicable under this Act for inves-  
5           tigating and punishing violations of part A of title  
6           II.

7           “(b) SPECIAL REQUIREMENTS FOR SURVEYS OF  
8           SEXUAL HARASSMENT.—

9           “(1) IN GENERAL.—In each survey conducted  
10          under this section, the Office shall survey respond-  
11          ents regarding the prevalence of and attitudes re-  
12          garding sexual harassment in congressional employ-  
13          ment, including collecting information regarding spe-  
14          cific incidents of harassment and the context in  
15          which such incidents occurred.

16          “(2) COMPILATION OF INFORMATION BY VAR-  
17          IOUS CATEGORIES.—The Office shall compile infor-  
18          mation from the survey on the basis of various cat-  
19          egories of demographic characteristics, including  
20          race, sexual orientation, and age, so that the survey  
21          will report on the rates of incidents of sexual harass-  
22          ment affecting each such category.

23          “(3) CONSULTATION; TECHNICAL ASSIST-  
24          ANCE.—The Office shall develop the survey regard-  
25          ing sexual harassment in consultation with offices of

1 the executive branch which currently conduct similar  
2 surveys of their employees, including the Sexual As-  
3 sault Prevention and Response Office of the Depart-  
4 ment of Defense, the Office of Violence Against  
5 Women of the Department of Justice, the Merit Sys-  
6 tems Protection Board. Additionally, in developing  
7 the survey, the Office shall enter into agreement to  
8 receive technical assistance from Workplaces Re-  
9 spond to Domestic and Sexual Violence: A National  
10 Resource Center (also known as ‘Workplaces Re-  
11 spond’), the nonprofit nongovernmental entity de-  
12 scribed in section 41501 of the Violence Against  
13 Women Act of 1994 (34 U.S.C. 12501).

14 “(c) METHODOLOGY.—The Office shall conduct each  
15 survey under this section in accordance with the following:

16 “(1) All responses to all portions of the survey  
17 shall be anonymous and confidential, and each re-  
18 spondent shall be told throughout the survey that all  
19 responses shall be anonymous and confidential.

20 “(2) The Office shall design the survey so that  
21 it will take no more than 15 minutes to complete,  
22 and so that it may be taken online through the use  
23 of both stationary communication devices (such as  
24 desktop computers) and portable communication de-  
25 vices (such as cell phones and tablets).

1           “(3) The Office shall include in the survey a list  
 2           of resources available to respondents who wish to get  
 3           more information about employment discrimination  
 4           in congressional employment, including the services  
 5           the Office provides to individuals who allege viola-  
 6           tions of part A of title II.

7           “(4) Subject to regulations promulgated by the  
 8           Committee on House Administration of the House of  
 9           Representatives (in the case of a survey taken by a  
 10          Member or employee of the House) or the Com-  
 11          mittee on Rules and Administration of the Senate  
 12          (in the case of a survey taken by a Senator or em-  
 13          ployee of the Senate), the Office may offer a de  
 14          minimis payment to an individual as an incentive to  
 15          complete the survey.”.

16          (b) CLERICAL AMENDMENT.—The table of contents  
 17          is amended by adding at the end of the items relating to  
 18          title III the following new item:

“Sec. 307. Employment discrimination climate surveys of Members and employ-  
 ees of Congress.”.

## 19           **TITLE III—MISCELLANEOUS** 20           **REFORMS**

### 21          **SEC. 301. EXTENSION TO UNPAID STAFF OF RIGHTS AND** 22                           **PROTECTIONS AGAINST EMPLOYMENT DIS-** 23                           **CRIMINATION.**

24          Section 201 (2 U.S.C. 1311) is amended—

1           (1) by redesignating subsection (d) as sub-  
2           section (e); and

3           (2) by inserting after subsection (c) the fol-  
4           lowing new subsection:

5           “(d) APPLICATION TO UNPAID STAFF.—

6           “(1) IN GENERAL.—Subsections (a) and (b)  
7           shall apply with respect to any staff of an employing  
8           office who carry out official duties of the employing  
9           office but who are not paid by the employing office  
10          for carrying out such duties, including an intern (in-  
11          cluding an applicant for an internship and a former  
12          intern), an individual detailed to an employing office,  
13          and an individual participating in a fellowship pro-  
14          gram, in the same manner and to the same extent  
15          as such subsections apply with respect to an em-  
16          ployee.

17          “(2) INTERN DEFINED.—The term ‘intern’  
18          means an individual who performs uncompensated  
19          voluntary service for an employing office to earn  
20          credit awarded by an educational institution or to  
21          learn a trade or occupation, and includes any indi-  
22          vidual participating in a page program operated by  
23          any House of Congress.”.

1 **SEC. 302. APPLICATION OF WHISTLEBLOWER PROTECTION**  
2 **RULES.**

3 (a) IN GENERAL.—Part A of title II (2 U.S.C. 1311  
4 et seq.) is amended—

5 (1) in the heading, by striking “**FAIR LABOR**  
6 **STANDARDS,**” and all that follows and inserting  
7 “**AND OTHER PROTECTIONS AND BENEFITS**”;

8 (2) by redesignating section 207 as section 208;  
9 and

10 (3) by inserting after section 206 the following  
11 new section:

12 **“SEC. 207. RIGHTS AND PROTECTIONS UNDER WHISTLE-**  
13 **BLOWER PROTECTION RULES.**

14 “(a) RIGHTS AND PROTECTIONS DESCRIBED.—

15 “(1) IN GENERAL.—No employing office may  
16 take or fail to take, or threaten to take or fail to  
17 take, a personnel action (within the meaning of  
18 chapter 23 of title 5, United States Code) with re-  
19 spect to any covered employee or applicant for em-  
20 ployment because of—

21 “(A) any disclosure of information by a  
22 covered employee or applicant which the em-  
23 ployee or applicant reasonably believes evi-  
24 dences—

25 “(i) a violation of any law, rule, or  
26 regulation, or

1                   “(ii) gross mismanagement, a gross  
2                   waste of funds, an abuse of authority, or  
3                   a substantial and specific danger to public  
4                   health or safety,  
5                   if such disclosure is not specifically prohibited  
6                   by law and if such information is not specifi-  
7                   cally required by Executive order or the rules of  
8                   the House of Representatives or Senate to be  
9                   kept secret in the interest of national defense or  
10                  the conduct of foreign affairs; or

11                  “(B) any disclosure to the General Coun-  
12                  sel, or to the Inspector General of an executive  
13                  agency or office of the legislative branch or an-  
14                  other employee designated by the head of the  
15                  agency or office to receive such disclosures, of  
16                  information which the employee or applicant  
17                  reasonably believes evidences—

18                         “(i) a violation of any law, rule, or  
19                         regulation, or

20                         “(ii) gross mismanagement, a gross  
21                         waste of funds, an abuse of authority, or  
22                         a substantial and specific danger to public  
23                         health or safety.

24                  “(2) DEFINITIONS.—For purposes of this sec-  
25                  tion and for purposes of applying the procedures es-



1       tablished under title IV for the consideration of al-  
2       leged violations of this section—

3               “(A) the term ‘covered employee’ includes  
4               an employee of the Government Accountability  
5               Office or the Library of Congress; and

6               “(B) the term ‘employing office’ includes  
7               the Government Accountability Office and the  
8               Library of Congress.

9       “(b) REMEDY.—The remedy for a violation of sub-  
10      section (a) shall be such remedy as would be appropriate  
11      if awarded under chapter 12 of title 5, United States  
12      Code, with respect to a prohibited personnel practice de-  
13      scribed in section 2302(b)(8) of such title.

14      “(c) REGULATIONS TO IMPLEMENT SECTION.—

15              “(1) IN GENERAL.—The Board shall, pursuant  
16              to section 304, issue regulations to implement this  
17              section.

18              “(2) AGENCY REGULATIONS.—The regulations  
19              issued under paragraph (1) shall be the same as the  
20              substantive regulations promulgated by the Merit  
21              Systems Protection Board to implement chapters 12  
22              and 23 of title 5, United States Code, except to the  
23              extent that the Board of Directors may determine,  
24              for good cause shown and stated together with the  
25              regulation, that a modification of such regulations

1 would be more effective for the implementation of  
 2 the rights and protections under this section.”.

3 (b) CONFORMING AMENDMENT.—Section 102(a) (2  
 4 U.S.C. 1302(a)) is amended by adding at the end the fol-  
 5 lowing new paragraph:

6 “(12) Section 2302(b)(8) of title 5, United  
 7 States Code.”.

8 (c) CLERICAL AMENDMENT.—The table of contents  
 9 for part A of title II is amended—

10 (1) in the item relating to part A, by striking  
 11 **“FAIR LABOR STANDARDS,”** and all that  
 12 follows and inserting **“AND OTHER PROTEC-**  
 13 **TIONS AND BENEFITS”**;

14 (2) by redesignating the item relating to section  
 15 207 as relating to section 208; and

16 (3) by inserting after the item relating to sec-  
 17 tion 206 the following:

“Sec. 207. Rights and protections under whistleblower protection rules.”.

18 **SEC. 303. RENAMING OFFICE OF COMPLIANCE AS OFFICE**  
 19 **OF CONGRESSIONAL WORKPLACE RIGHTS.**

20 (a) RENAMING.—Section 301 of the Congressional  
 21 Accountability Act of 1995 (2 U.S.C. 1381 et seq.) is  
 22 amended—

23 (1) in the heading, by striking **“OFFICE OF**  
 24 **COMPLIANCE”** and inserting **“OFFICE OF CON-**  
 25 **GRESSIONAL WORKPLACE RIGHTS”**; and

1           (2) in subsection (a), by striking “Office of  
2       Compliance” and inserting “Office of Congressional  
3       Workplace Rights”.

4       (b) CONFORMING AMENDMENTS TO CONGRESSIONAL  
5       ACCOUNTABILITY ACT OF 1995.—The Congressional Ac-  
6       countability Act of 1995 is amended as follows:

7           (1) In section 101(1) (2 U.S.C. 1301(1)), by  
8       striking “Office of Compliance” and inserting “Of-  
9       fice of Congressional Workplace Rights”.

10          (2) In section 101(2) (2 U.S.C. 1301(2)), by  
11       striking “Office of Compliance” and inserting “Of-  
12       fice of Congressional Workplace Rights”.

13          (3) In section 101(3)(H) (2 U.S.C.  
14       1301(3)(H)), by striking “Office of Compliance”  
15       and inserting “Office of Congressional Workplace  
16       Rights”.

17          (4) In section 101(9)(D) (2 U.S.C.  
18       1301(9)(D)), by striking “Office of Compliance” and  
19       inserting “Office of Congressional Workplace  
20       Rights”.

21          (5) In section 101(10) (2 U.S.C. 1301(10)), by  
22       striking “Office of Compliance” and inserting “Of-  
23       fice of Congressional Workplace Rights”.

1           (6) In section 101(11) (2 U.S.C. 1301(11)), by  
2       striking “Office of Compliance” and inserting “Of-  
3       fice of Congressional Workplace Rights”.

4           (7) In section 101(12) (2 U.S.C. 1301(12)), by  
5       striking “Office of Compliance” and inserting “Of-  
6       fice of Congressional Workplace Rights”.

7           (8) In section 210(a)(9) (2 U.S.C. 1331(a)(9)),  
8       by striking “Office of Compliance” and inserting  
9       “Office of Congressional Workplace Rights”.

10          (9) In section 215(e)(1) (2 U.S.C. 1341(e)(1)),  
11       by striking “Office of Compliance” and inserting  
12       “Office of Congressional Workplace Rights”.

13          (10) In section 220(e)(2)(G) (2 U.S.C.  
14       1351(e)(2)(G)), by striking “Office of Compliance”  
15       and inserting “Office of Congressional Workplace  
16       Rights”.

17          (11) In the heading of title III, by striking  
18       **“OFFICE OF COMPLIANCE”** and inserting  
19       **“OFFICE OF CONGRESSIONAL WORK-**  
20       **PLACE RIGHTS”**.

21          (12) In section 304(c)(4) (2 U.S.C.  
22       1384(c)(4)), by striking “Office of Compliance” and  
23       inserting “Office of Congressional Workplace  
24       Rights”.

1           (13) In section 304(c)(5) (2 U.S.C.  
 2       1384(c)(5)), by striking “Office of Compliance” and  
 3       inserting “Office of Congressional Workplace  
 4       Rights”.

5       (c) CLERICAL AMENDMENTS.—The table of contents  
 6 is amended—

7           (1) by amending the item relating to the head-  
 8       ing of title III to read as follows:

“TITLE III—OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS”;

9       and

10          (2) by amending the item relating to section  
 11       301 to read as follows:

“Sec. 301. Office of Congressional Workplace Rights.”.

12       (d) REFERENCES IN OTHER LAWS, RULES, AND  
 13 REGULATIONS.—Any reference to the Office of Compli-  
 14 ance in any law, rule, regulation, or other official paper  
 15 in effect as of the effective date of this Act shall be consid-  
 16 ered to refer and apply to the Office of Congressional  
 17 Workplace Rights.

## 18       **TITLE IV—EFFECTIVE DATE**

### 19       **SEC. 401. EFFECTIVE DATE.**

20       Except as otherwise provided, this Act and the  
 21 amendments made by this Act shall take effect upon the  
 22 expiration of the 180-day period which begins on the date  
 23 of the enactment of this Act.

