

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-53, title III, §309(c), Nov. 19, 1995, 109 Stat. 538, provided that: “The amendments made by this section [amending this section] shall take effect only if the Administrative Conference of the United States ceases to exist prior to the completion and submission of the study to the Board as required by section 230 of the Congressional Accountability Act of 1995 (2 U.S.C. 1371). [See provision of title IV of Pub. L. 104-52, set out as a note preceding section 591 of Title 5, Government Organization and Employees.]”

SUBCHAPTER III—OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

Editorial Notes

CODIFICATION

Pub. L. 115-397, title III, §308(b)(11), Dec. 21, 2018, 132 Stat. 5326, substituted “OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS” for “OFFICE OF COMPLIANCE” in subchapter heading.

§ 1381. Establishment of Office of Congressional Workplace Rights

(a) Establishment

There is established, as an independent office within the legislative branch of the Federal Government, the Office of Congressional Workplace Rights.

(b) Board of Directors

The Office shall have a Board of Directors. The Board shall consist of 5 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate, who are authorized to take such steps as they consider appropriate to ensure the timely appointment of the members of the Board consistent with the requirements of this section. Appointments of the first 5 members of the Board shall be completed not later than 90 days after January 23, 1995.

(c) Chair

The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) Board of Directors qualifications

(1) Specific qualifications

Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 1302 of this title.

(2) Disqualifications for appointments

(A) Lobbying

No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act¹ to register with the Clerk of the House of Representatives or the

Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) Incompatible office

No member of the Board appointed under subsection (b) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives, Senate, or instrumentality or other entity of the legislative branch (other than the Office), or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board,² an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Senate Fair Employment Practices) within 4 years of the date of appointment.

(3) Vacancies

A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) Term of office

(1) In general

Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board may be reappointed, but no individual may serve as a member for more than 2 terms.

(2) First appointments

Of the members first appointed to the Board—

- (A) 1 shall have a term of office of 3 years,
- (B) 2 shall have a term of office of 4 years, and
- (C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b).

(3) Permitting service until appointment of successor

A member of the Board may serve after the expiration of that member's term until a successor has taken office.

(f) Removal

(1) Authority

Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b), but only for—

- (A) disability that substantially prevents the member from carrying out the duties of the member,
- (B) incompetence,
- (C) neglect of duty,
- (D) malfeasance, including a felony or conduct involving moral turpitude, or
- (E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2).

(2) Statement of reasons for removal

In removing a member of the Board, the Speaker of the House of Representatives and

¹ See References in Text note below.

² See Change of Name note below.

the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) Compensation

(1) Per diem

(A) Rate of compensation for each day

Each member of the Board shall be compensated, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board, at a rate equal to the daily equivalent of the lesser of—

- (i) the highest annual rate of compensation of any officer of the Senate; or
- (ii) the highest annual rate of compensation of any officer of the House of Representatives.

(B) Authority to prorate

The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) Travel expenses

Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) Duties

The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under subchapter IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to covered employees by the end of each fiscal year, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office 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 under this chapter and the result of such proceedings, and on the number of covered employees who filed a claim, the basis for the claim, and the action taken on the claim.

(i) Congressional oversight

The Board and the Office shall be subject to oversight (except with respect to the disposition

of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs² of the Senate and the Committee on House Oversight² of the House of Representatives.

(j) Opening of Office

The Office shall be open for business, including receipt of requests for counseling under section 1402 of this title, not later than 1 year after January 23, 1995.

(k) Financial disclosure reports

Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under subchapter I of chapter 131 of title 5 with the Clerk of the House of Representatives.

(l) Annual reports on awards and settlements

(1) In general

Subject to the rules issued by the applicable committee pursuant to paragraph (2):

(A) Requirement

The Office shall prepare and submit to Congress, and publish on the public website of the Office, an annual report regarding payments from the account described in section 1415(a) of this title that were the result of claims alleging a violation of part A of subchapter II (referred to in this subsection as “covered payments”).

(B) Reporting

The reporting required under this paragraph shall—

(i) for a covered payment, or the reimbursable portion of a covered payment, described in paragraph (2), conform to the requirements of the rules issued by the applicable committee under such paragraph; and

(ii) for a covered payment, or the portion of a covered payment, not described in paragraph (2)—

(I) include the amount of the covered payment or portion of the covered payment and information on the employing office involved; and

(II) identify each provision of part A of subchapter II that was the subject of a claim resulting in the covered payment or portion of the covered payment.

(C) Reporting periods and dates

The reporting required under this paragraph—

(i) for 2019, shall be submitted by the 60th day after the date on which the committees described in paragraph (2) issue the rules described in paragraph (2) and shall reflect covered payments made in calendar year 2019; and

(ii) for 2020 and each subsequent calendar year, shall be submitted by January 31 of that year and shall reflect covered payments made in the previous calendar year.

(2) Rules regarding reporting of covered payments for employing offices of the House and employing offices of the Senate

(A) In general

Not later than 180 days after December 21, 2018, the Committee on House Administra-

tion of the House of Representatives and the Committee on Rules and Administration of the Senate shall each issue rules establishing the content, format, and other requirements for the reporting required under paragraph (1)(B)(i) with respect to—

(i) any covered payment made for claims involving an employing office described in any of subparagraphs (A) through (C) of section 1301(a)(9) of this title of the House of Representatives or of the Senate, respectively; and

(ii) the reimbursable portion of any such covered payment for which there is a finding requiring reimbursement under section 1415(d)(1)(B) of this title from a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, respectively.

(B) Applicability

The rules issued under subparagraph (A)—

(i) by the Committee on House Administration of the House of Representatives shall apply to covered payments made for claims involving employing offices described in subparagraph (A)(i) of the House; and

(ii) by the Committee on Rules and Administration of the Senate shall apply to covered payments made for claims involving employing offices described in subparagraph (A)(i) of the Senate.

(3) Protection of identity of individuals receiving awards and settlements

In preparing, submitting, and publishing the reports required under paragraph (1), the Office shall ensure that the identity or position of any claimant is not disclosed.

(4) Authority to protect the identity of a claimant

(A) In general

In carrying out paragraph (3), the Executive Director, in consultation with the Board, may make an appropriate redaction to the data included in the report described in paragraph (1) if the Executive Director, in consultation with the Board, determines that including the data considered for redaction may lead to the identity or position of a claimant unintentionally being disclosed. The report shall note each redaction and include a statement that the redaction was made solely for the purpose of avoiding such an unintentional disclosure of the identity or position of a claimant.

(B) Recordkeeping

The Executive Director shall retain a copy of the report described in paragraph (1), without redactions.

(5) Definition

In this subsection, the term “claimant” means an individual who received an award or settlement, or who made an allegation of a violation against an employing office, under part A of subchapter II.

(m) Record retention

The Office shall establish and maintain a program for the permanent retention of its records,

including the records of preliminary reviews, mediations, hearings, and other proceedings conducted under subchapter IV.

(Pub. L. 104–1, title III, §301, Jan. 23, 1995, 109 Stat. 24; Pub. L. 108–349, §1(a), Oct. 21, 2004, 118 Stat. 1389; Pub. L. 110–161, div. H, title I, §1101(a), Dec. 26, 2007, 121 Stat. 2237; Pub. L. 110–164, §1, Dec. 26, 2007, 121 Stat. 2459; Pub. L. 113–235, div. H, title I, §1001, Dec. 16, 2014, 128 Stat. 2530; Pub. L. 115–19, §1(c), (d), Apr. 3, 2017, 131 Stat. 85; Pub. L. 115–397, title II, §§201(a)(1), 203, title III, §308(a), Dec. 21, 2018, 132 Stat. 5315, 5318, 5325; Pub. L. 117–286, §4(c)(2), Dec. 27, 2022, 136 Stat. 4353.)

Editorial Notes

REFERENCES IN TEXT

The Federal Regulation of Lobbying Act, referred to in subsec. (d)(2)(A), is title III of act Aug. 2, 1946, ch. 753, 60 Stat. 839, which was classified generally to chapter 8A (§261 et seq.) of this title prior to repeal by Pub. L. 104–65, §11(a), Dec. 19, 1995, 109 Stat. 701. See section 1601 et seq. of this title.

This chapter, referred to in subsec. (h)(3), was in the original “this Act”, meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

Part A of subchapter II, referred to in subsec. (l)(1)(A), (B)(ii)(II), (5), was in the original “part A of title II”, meaning part A (§§201–207) of title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

AMENDMENTS

2022—Subsec. (k). Pub. L. 117–286 substituted “subchapter I of chapter 131 of title 5” for “title I of the Ethics in Government Act of 1978”.

2018—Pub. L. 115–397, §308(a)(1), substituted “Office of Congressional Workplace Rights” for “Office of Compliance” in section catchline.

Subsec. (a). Pub. L. 115–397, §308(a)(2), substituted “Office of Congressional Workplace Rights” for “Office of Compliance”.

Subsec. (h)(3). Pub. L. 115–397, §201(a)(1)(A), substituted “claim” for “complaint” wherever appearing.

Subsec. (l). Pub. L. 115–397, §201(a)(1)(B), added subsec. (l).

Subsec. (m). Pub. L. 115–397, §203, added subsec. (m).

2017—Subsec. (b). Pub. L. 115–19, §1(d), inserted “, who are authorized to take such steps as they consider appropriate to ensure the timely appointment of the members of the Board consistent with the requirements of this section” after “and the Senate”.

Subsec. (e)(3). Pub. L. 115–19, §1(c), added par. (3).

2014—Subsec. (h)(2). Pub. L. 113–235 substituted “covered employees by the end of each fiscal year” for “the residences of covered employees”.

2007—Subsec. (d)(2)(B). Pub. L. 110–164 substituted “legislative branch (other than the Office),” for “legislative branch.”

Subsec. (g)(1). Pub. L. 110–161 added par. (1) and struck out heading and text of former par. (1). Text read as follows: “Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.”

2004—Subsec. (e)(1). Pub. L. 108-349 amended second sentence generally. Prior to amendment, second sentence read as follows: “A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.”

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108-271, set out as a note under section 702 of Title 31, Money and Finance.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-397, title II, §201(a)(2), Dec. 21, 2018, 132 Stat. 5316, provided that: “The amendment made by paragraph (1)(B) [amending this section] shall take effect on January 1, 2019.”

Pub. L. 115-397, title III, §308(d), Dec. 21, 2018, 132 Stat. 5326, provided that: “The amendments made by this section [amending this section and sections 1301, 1331, 1341, 1351, and 1384 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2018]. Any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date shall be considered to refer and apply to the Office of Congressional Workplace Rights.”

Except as otherwise provided, amendment by Pub. L. 115-397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115-397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-349, §1(b), Oct. 21, 2004, 118 Stat. 1389, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to individuals serving on the Board of Directors of the Office of Compliance on or after September 30, 2004.”

APPOINTMENT OF MEMBERS OF BOARD OF DIRECTORS OF OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

Pub. L. 115-19, §1(a), (b), Apr. 3, 2017, 131 Stat. 84, provided that:

“(a) APPOINTMENT OF MEMBERS.—

“(1) MEMBERS REPLACING MEMBERS WHOSE TERMS EXPIRE IN MARCH 2017.—Notwithstanding the first sentence of section 301(e) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)), of the members of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] who are appointed to replace the 3 members whose terms expire in March 2017—

“(A) one shall have a term of office of 3 years; and

“(B) 2 shall have a term of office of 4 years,

“as designated at the time of appointment by the persons specified in section 301(b) of such Act (2 U.S.C. 1381(b)).

“(2) MEMBERS REPLACING MEMBERS WHOSE TERMS EXPIRE IN MAY 2017.—In accordance with the first sentence of section 301(e) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)), the members of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] who are appointed to replace the 2 members whose terms expire in May 2017 shall each have a term of office of 5 years.

“(b) SERVICE OF CURRENT MEMBERS.—Notwithstanding the second sentence of section 301(e) of the

Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)) or section 3 of the Office of Compliance Administrative and Technical Corrections Act of 2015 (Public Law 114-6; 2 U.S.C. 1381 note)—

“(1) an individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] whose term expires in March 2017 may be reappointed to serve one additional term at the length designated under paragraph (1) of subsection (a), but may not be reappointed to any additional terms after that additional term expires; and

“(2) an individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] whose term expires in May 2017 may be reappointed to serve one additional term at the length referred to in paragraph (2) of subsection (a), but may not be reappointed to any additional terms after that additional term expires.”

Pub. L. 114-6, §3, Mar. 20, 2015, 129 Stat. 82, provided that: “Notwithstanding section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)), any individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] as of February 28, 2015, may be appointed to serve for one additional term of 2 years.”

Pub. L. 111-114, §1, Dec. 14, 2009, 123 Stat. 3028, provided that: “Notwithstanding the second sentence of section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)), any individual serving as a member of the Board of Directors of the Office of Compliance [now Office of Congressional Workplace Rights] as of September 30, 2009, may serve for 3 terms.”

§ 1382. Officers, staff, and other personnel

(a) Executive Director

(1) Appointment and removal

(A) In general

The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) Qualifications

The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 1302(a) of this title.

(C) Disqualifications

The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of the Executive Director.

(2) Compensation

(A) Authority to fix compensation

The Chair may fix the compensation of the Executive Director.

(B) Limitation

The rate of pay for the Executive Director may not exceed the maximum rate of pay in effect under section 4575(f) of this title.

(3) Term

The term of office of the Executive Director shall be not more than 2 terms of 5 years, ex-