

## 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 Act<sup>1</sup> 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,<sup>2</sup> 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

<sup>1</sup> See References in Text note below.

<sup>2</sup> 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 Affairs<sup>2</sup> of the Senate and the Committee on House Oversight<sup>2</sup> 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-

cept that the first Executive Director shall have a single term of 7 years.

**(4) Duties**

The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this chapter, the Executive Director shall carry out all of the responsibilities of the Office under this chapter.

**(b) Deputy Executive Directors**

**(1) In general**

The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of a Deputy Executive Director.

**(2) Term**

The term of office of a Deputy Executive Director shall be not more than 2 terms of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

**(3) Compensation**

**(A) Authority to fix compensation**

The Chair may fix the compensation of the Deputy Executive Directors.

**(B) Limitation**

The rate of pay for a Deputy Executive Director may not exceed 96 percent 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.

**(4) Duties**

The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 1384(a)(2)(B)(i) of this title, maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 1384(a)(2)(B)(ii) of this title, maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

**(c) General Counsel**

**(1) In general**

The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of a General Counsel.

**(2) Compensation**

**(A) Authority to fix compensation**

The Chair may fix the compensation of the General Counsel.

**(B) Limitation**

The rate of pay for the General Counsel may not exceed 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.

**(3) Duties**

The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this chapter; and

(B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this chapter.

**(4) Attorneys in the office of the General Counsel**

The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

**(5) Term**

The term of office of the General Counsel shall be not more than 2 terms of 5 years.

**(6) Removal**

**(A) Authority**

The General Counsel may be removed from office by the Chair but only for—

- (i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,
- (ii) incompetence,
- (iii) neglect of duty,
- (iv) malfeasance, including a felony or conduct involving moral turpitude, or
- (v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

**(B) Statement of reasons for removal**

In removing the General Counsel, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

**(d) Confidential advisors**

**(1) In general**

The Executive Director shall—

(A) appoint, and fix the compensation of, and may remove, 1 or more confidential advisors to carry out the duties described in this subsection; or

(B) designate 1 or more employees of the Office to serve as a confidential advisor.

**(2) Duties**

**(A) Voluntary services**

A confidential advisor appointed or designated under paragraph (1) shall offer to

provide to covered employees described in paragraph (4) the services described in subparagraph (B), which a covered employee may accept or decline.

**(B) Services**

The services referred to in subparagraph (A) are—

(i) informing, on a privileged and confidential basis, a covered employee who has been subject to a practice that may be a violation of part A of subchapter II about the employee's rights under this chapter;

(ii) consulting, on a privileged and confidential basis, with a covered employee who has been subject to a practice that may be a violation of part A of subchapter II regarding—

(I) the roles, responsibilities, and authority of the Office; and

(II) the relative merits of securing private counsel, designating a non-attorney representative, or proceeding without representation for proceedings before the Office;

(iii) advising and consulting with, on a privileged and confidential basis, a covered employee who has been subject to a practice that may be a violation of part A of subchapter II regarding any claims the covered employee may have under subchapter IV, the factual allegations that support each such claim, and the relative merits of the procedural options available to the employee for each such claim;

(iv) assisting, on a privileged and confidential basis, a covered employee who seeks consideration under title IV of an allegation of a violation of part A of subchapter II in understanding the procedures, and the significance of the procedures, described in subchapter IV, including—

(I) assisting or consulting with the covered employee regarding the drafting of a claim to be filed under section 1402(a) of this title; and

(II) consulting with the covered employee regarding the procedural options available to the covered employee after a claim is filed, and the relative merits of each option; and

(v) informing, on a privileged and confidential basis, a covered employee who has been subject to a practice that may be a violation of part A of subchapter II about the option of pursuing, in appropriate circumstances, a complaint with the Committee on Ethics of the House of Representatives or the Select Committee on Ethics of the Senate.

**(C) Continuity of service**

Once a covered employee has accepted and received any services offered under this section from a confidential advisor appointed or designated under paragraph (1), any other services requested under this subsection by the covered employee shall be provided, to the extent practicable, by the same confidential advisor.

**(3) Qualifications**

A confidential advisor appointed or designated under paragraph (1) shall be a lawyer who—

(A) is admitted to practice before, and is in good standing with, the bar of a State of the United States, the District of Columbia, or a territory of the United States; and

(B) has experience representing clients in cases involving the workplace laws incorporated by part A of subchapter II.

**(4) Individuals covered**

The services described in paragraph (2) are available to any covered employee (which, for purposes of this subsection, shall include any staff member described in section 1311(d) of this title and any former covered employee (including any such former staff member)), except that—

(A) a former covered employee may only request such services if the practice that may be a violation of part A of subchapter II occurred during the employment or service of the employee; and

(B) a covered employee described in this paragraph may only request such services before the expiration of the 180-day period described in section 1402(d) of this title.

**(5) Restrictions**

A confidential advisor appointed or designated under paragraph (1)—

(A) shall not act as the designated representative for any covered employee in connection with the covered employee's participation in any proceeding, including any proceeding under this chapter, any judicial proceeding, or any proceeding before any committee of Congress;

(B) shall not offer or provide services described in paragraph (2)(B) to a covered employee if the covered employee has designated an attorney representative in connection with the covered employee's participation in any proceeding under this chapter, except that a confidential advisor may provide general assistance and information to such attorney representative regarding this chapter and the role of the Office as the confidential advisor determines appropriate; and

(C) shall not serve as a mediator in any mediation conducted pursuant to section 1403 of this title.

**(e) Other staff**

The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

**(f) Detailed personnel**

The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the Government Accountability Office Personnel Appeals Board.

**(g) Consultants**

In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

(Pub. L. 104-1, title III, §302, Jan. 23, 1995, 109 Stat. 26; Pub. L. 110-161, div. H, title I, §1101(b), Dec. 26, 2007, 121 Stat. 2237; Pub. L. 110-164, §2(a), Dec. 26, 2007, 121 Stat. 2459; Pub. L. 115-397, title II, §204, Dec. 21, 2018, 132 Stat. 5318; Pub. L. 116-94, div. E, title II, §212(a)(3)(C), Dec. 20, 2019, 133 Stat. 2775.)

**Editorial Notes****REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a)(4), (c)(3), and (d)(2)(B)(i), (5)(A), (B), 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. (d)(2)(B), (3)(B), (4)(A), 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**

2019—Subsec. (a)(2)(B). Pub. L. 116-94 substituted “the maximum rate of pay in effect under section 4575(f) of this title.” for “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.”

2018—Subsecs. (d) to (g). Pub. L. 115-397 added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

2007—Subsec. (a)(2). Pub. L. 110-161, §1101(b)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.”

Subsec. (a)(3). Pub. L. 110-164, §2(a)(1), substituted “not more than 2 terms” for “a single term” the first time appearing.

Subsec. (b)(2). Pub. L. 110-164, §2(a)(2), substituted “not more than 2 terms” for “a single term” the first time appearing.

Subsec. (b)(3). Pub. L. 110-161, §1101(b)(2), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.”

Subsec. (c)(2). Pub. L. 110-161, §1101(b)(3), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.”

Subsec. (c)(5). Pub. L. 110-164, §2(a)(3), substituted “not more than 2 terms” for “a single term”.

Subsec. (e). Pub. L. 110-161, §1101(b)(4), substituted “Government Accountability Office” for “General Accounting Office”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2019 AMENDMENT**

Amendment by Pub. L. 116-94 effective on the later of the first day of the first applicable pay period beginning on or after Jan. 1, 2020, or the first day of the first applicable pay period beginning on or after Dec. 20, 2019, see section 212(c) of Pub. L. 116-94, set out as a note under section 282b of this title.

**EFFECTIVE DATE OF 2018 AMENDMENT**

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 2007 AMENDMENT**

Pub. L. 110-164, §2(b), Dec. 26, 2007, 121 Stat. 2459, provided that: “The amendments made by this section [amending this section] shall apply with respect to an individual who is first appointed to the position of Executive Director, Deputy Executive Director, or General Counsel of the Office of Compliance after the date of the enactment of this Act [Dec. 26, 2007].”

**PERMITTING CURRENT EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTORS, AND GENERAL COUNSEL OF OFFICE OF COMPLIANCE TO SERVE ONE ADDITIONAL TERM**

Pub. L. 109-38, §1, July 27, 2005, 119 Stat. 408, provided that:

“(a) EXECUTIVE DIRECTOR.—Notwithstanding section 302(a)(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1382(a)(3)), the individual serving as Executive Director of the Office of Compliance [now Office of Congressional Workplace Rights] as of the date of the enactment of this Act [July 27, 2005] may serve one additional term.

“(b) DEPUTY EXECUTIVE DIRECTORS.—Notwithstanding section 302(b)(2) of such Act (2 U.S.C. 1382(b)(2)), any individual serving as a Deputy Executive Director of the Office of Compliance [now Office of Congressional Workplace Rights] as of the date of the enactment of this Act may serve one additional term.

“(c) GENERAL COUNSEL.—Notwithstanding section 302(c)(5) of such Act (2 U.S.C. 1382(c)(5)), the individual serving as General Counsel of the Office of Compliance [now Office of Congressional Workplace Rights] as of the date of the enactment of this Act may serve one additional term.”

**§ 1383. Procedural rules****(a) In general**

The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

**(b) Procedure**

The Executive Director shall adopt rules referred to in subsection (a) in accordance with the principles and procedures set forth in section 553 of title 5. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day

on which both Houses are in session following such transmittal. Before adopting rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.

(Pub. L. 104–1, title III, §303, Jan. 23, 1995, 109 Stat. 28.)

## **§ 1384. Substantive regulations**

### **(a) Regulations**

#### **(1) In general**

The procedures applicable to the regulations of the Board issued for the implementation of this chapter, which shall include regulations the Board is required to issue under subchapter II (including regulations on the appropriate application of exemptions under the laws made applicable in subchapter II) are as prescribed in this section.

#### **(2) Rulemaking procedure**

Such regulations of the Board—

(A) shall be adopted, approved, and issued in accordance with subsection (b); and

(B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—

(i) the Senate and employees of the Senate;

(ii) the House of Representatives and employees of the House of Representatives; and

(iii) all other covered employees and employing offices.

### **(b) Adoption by Board**

The Board shall adopt the regulations referred to in subsection (a)(1) in accordance with the principles and procedures set forth in section 553 of title 5 and as provided in the following provisions of this subsection:

#### **(1) Proposal**

The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i), the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii), and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii).

### **(2) Comment**

Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

### **(3) Adoption**

After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

### **(4) Recommendation as to method of approval**

The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

### **(c) Approval of regulations**

#### **(1) In general**

Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution.

#### **(2) Referral**

Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

### **(3) Joint referral and discharge in the Senate**

The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

### **(4) One-House resolution or concurrent resolution**

In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the



matter after the resolving clause shall be the following: “The following regulations issued by the Office of Congressional Workplace Rights on \_\_\_\_\_ are hereby approved:” (the blank space being appropriately filled in, and the text of the regulations being set forth).

**(5) Joint resolution**

In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: “The following regulations issued by the Office of Congressional Workplace Rights on \_\_\_\_\_ are hereby approved and shall have the force and effect of law:” (the blank space being appropriately filled in, and the text of the regulations being set forth).

**(d) Issuance and effective date**

**(1) Publication**

After approval of regulations under subsection (c), the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

**(2) Date of issuance**

The date of issuance of regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

**(3) Effective date**

Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5) and published with the regulation.

**(e) Amendment of regulations**

Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5.

**(f) Right to petition for rulemaking**

Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

**(g) Consultation**

The Executive Director, the Deputy Directors, and the Board—

(1) shall consult, with regard to the development of regulations, with—

(A) the Chair of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the

Board, the Executive Director, or Deputy Directors, may be helpful.

(Pub. L. 104-1, title III, § 304, Jan. 23, 1995, 109 Stat. 29; Pub. L. 115-397, title III, § 308(b)(12), (13), Dec. 21, 2018, 132 Stat. 5326.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in subsec. (a)(1) after “implementation of”, 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.

Subchapter II, referred to in subsec. (a)(1), was in the original “title II”, meaning title II of Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to subchapter II of this chapter. For complete classification of title II to the Code, see Tables.

**AMENDMENTS**

2018—Subsec. (c)(4), (5). Pub. L. 115-397 substituted “Office of Congressional Workplace Rights” for “Office of Compliance”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115-397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115-397, set out as a note under section 1381 of this title.

**§ 1385. Expenses**

**(a) Authorization of appropriations**

Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following January 23, 1995—

(1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and

(2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate,

upon vouchers approved by the Executive Director, except that a voucher shall not be required for the disbursement of salaries of employees who are paid at an annual rate. The Clerk of the House of Representatives and the Secretary of the Senate are authorized to make arrangements for the division of expenses under this subsection, including arrangements for one House of Congress to reimburse the other House of Congress.

**(b) Financial and administrative services**

The Executive Director may place orders and enter into agreements for goods and services with the head of any agency, or major organizational unit within an agency, in the legislative or executive branch of the United States in the same manner and to the same extent as agencies

are authorized under sections 1535 and 1536 of title 31 to place orders and enter into agreements.

**(c) Witness fees and allowances**

Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this chapter other than rule-making shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this chapter shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5.

(Pub. L. 104-1, title III, §305, Jan. 23, 1995, 109 Stat. 31.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), 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.

**§ 1386. Disposition of surplus or obsolete personal property**

The Executive Director may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding.

(Pub. L. 104-1, title III, §306, as added Pub. L. 111-68, div. A, title I, §1101(a), Oct. 1, 2009, 123 Stat. 2031.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Pub. L. 111-68, div. A, title I, §1101(c), Oct. 1, 2009, 123 Stat. 2031, provided that: “The amendments made by this section [enacting this section] shall apply with respect to fiscal year 2010, and each fiscal year thereafter.”

**§ 1387. Semiannual report of disbursements**

**(a) Reports required**

Not later than 60 days after the last day of each semiannual period of a fiscal year, the Executive Director of the Office of Compliance<sup>1</sup> shall submit to the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, with respect to that period, a detailed, itemized report of the disbursements for the operations of the Office of Compliance.<sup>1</sup>

**(b) Contents**

**(1) In general**

The report required by subsection (a) shall include—

(A) the identification of each person who receives a payment from the Office of Com-

pliance,<sup>1</sup> except that in the case of an individual, the identification shall be provided in a manner that does not identify the individual by name;

(B) the quantity and price of any item furnished to the Office of Compliance;<sup>1</sup>

(C) a description of any service rendered to the Office of Compliance,<sup>1</sup> together with a statement of the time required for the service, and the name, title, and amount paid to each person who renders the service;

(D) a statement of all amounts appropriated to, or received or expended by, the Office of Compliance<sup>1</sup> and any unexpended balances of such amounts; and

(E) such additional information as may be required by regulation of the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, or the Committees on Appropriations of the House of Representatives or Senate.

**(2) Exception for confidential information**

The Executive Director of the Office of Compliance<sup>1</sup> may exclude from any report required by subsection (a) any information the disclosure of which would violate confidentiality policies of the Office of Compliance.<sup>1</sup>

**(c) Effective date**

This section shall apply with respect to the semiannual periods of October 1 through March 31 and April 1 through September 30 of each fiscal year, beginning with fiscal year 2014.

(Pub. L. 113-76, div. I, title I, §1102, Jan. 17, 2014, 128 Stat. 425.)

**Editorial Notes**

CODIFICATION

Section was enacted as part of the Legislative Branch Appropriations Act, 2014, and also as part of the Consolidated Appropriations Act, 2014, and not as part of the Congressional Accountability Act of 1995 which comprises this chapter.

**Statutory Notes and Related Subsidiaries**

CHANGE OF NAME

Office of Compliance changed, as of Dec. 21, 2018, and considered to refer and apply, to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115-397, set out as an Effective Date of 2018 Amendment note under section 1381 of this title.

**§ 1388. Workplace climate surveys of employing offices**

**(a) Requirement to conduct secure surveys**

Not later than 1 year after December 21, 2018, and every 2 years thereafter, the Office shall conduct a secure survey of employing offices under this chapter regarding the workplace environment of such offices. Employee responses to the survey shall be voluntary.

**(b) Special inclusion of information on sexual harassment**

In each survey conducted under this section, the Office shall survey respondents on attitudes regarding sexual harassment.

<sup>1</sup> See Change of Name note below.

**(c) Methodology****(1) In general**

The Office shall conduct each survey under this section in accordance with methodologies established by the Office.

**(2) Confidentiality**

Under the methodologies established under paragraph (1), all responses to all portions of the survey shall be anonymous and confidential, and each respondent shall be told throughout the survey that all responses shall be anonymous and confidential.

**(3) Survey form**

The Office shall limit the use of any information code or information on the survey form that makes a respondent to the survey, or the respondent's employing office, individually identifiable.

**(d) Use of results of surveys**

The Office shall furnish the information obtained from the surveys conducted under this section to the Committee on House Administration of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Rules and Administration of the Senate.

**(e) Consultation with committees**

The Office shall carry out this section, including establishment of methodologies and procedures under subsection (c), in consultation with the Committee on House Administration of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Rules and Administration of the Senate.

(Pub. L. 104-1, title III, § 307, as added Pub. L. 115-397, title II, § 202(a), Dec. 21, 2018, 132 Stat. 5317.)

**Editorial Notes****REFERENCES IN TEXT**

This chapter, referred to in subsec. (a), 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.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section 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 an Effective Date of 2018 Amendment note under section 1301 of this title.

**SUBCHAPTER IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES****§ 1401. Procedure for consideration of alleged violations****(a) Filing and review of claims**

Except as otherwise provided, the procedure for consideration of an alleged violation of part A of subchapter II consists of—

(1) the filing of a claim by the covered employee alleging the violation, as provided in section 1402 of this title;

(2) the preliminary review of the claim, to be conducted by a hearing officer as provided in section 1402a of this title;

(3) mediation as provided in section 1403 of this title, if requested and agreed to by the parties under that section; and

(4) a formal hearing as provided in section 1405 of this title, subject to Board review as provided in section 1406 of this title and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 1407 of this title.

**(b) Right of employee to file civil action****(1) Civil action**

Only a covered employee who has filed a claim timely as provided in section 1402 of this title and who has not submitted a request for a hearing on the claim pursuant to section 1405(a) of this title may, during the period described in paragraph (3), file a civil action in a District Court of the United States with respect to the violation alleged in the claim, as provided in section 1408 of this title.

**(2) Effect of filing civil action**

Notwithstanding paragraph (2), (3), or (4) of subsection (a), if the covered employee files such a civil action—

(A) the preliminary review of the claim by the hearing officer as provided in section 1402a of this title shall terminate upon the filing of the action by the covered employee; and

(B) the procedure for consideration of the alleged violation shall not include any further review of the claim by the hearing officer as provided in section 1402a of this title.

**(3) Period for filing civil action**

The period described in this paragraph with respect to a claim is the 70-day period which begins on the date the covered employee files the claim under section 1402 of this title.

**(4) Special rule for employees who fail to state a claim for which relief may be granted**

Notwithstanding paragraph (3), if a covered employee receives a written notice from the hearing officer under section 1402a(d)(2) of this title that the employee has the right to file a civil action with respect to the claim in accordance with section 1408 of this title, the covered employee may file the civil action not later than 90 days after receiving such written notice.

**(c) Special rule for Architect of the Capitol and Capitol Police**

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Office, after receiving a claim filed under section 1402 of this title, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time. Any deadline in this chapter relating to a claim for which the employee is using the grievance procedures, that