



Dispute Resolution

Asserting Workplace Rights in the Legislative Branch

Office of Compliance – Advancing Workplace Rights, Safety and Health, and Accessibility in the Legislative Branch

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The Congressional Accountability Act of 1995 (CAA) applies employment, labor, safety, health, and accessibility laws to the Legislative Branch, which includes Congress and its agencies. These laws provide congressional employees with many of the same rights and protections as employees in the private sector and the federal Executive Branch.

The CAA established an administrative and judicial dispute resolution (ADR) program, which includes confidential counseling and mediation for the settling of disputes under most workplace rights laws. Some advantages of using the Office of Compliance’s (OOC) administrative hearing process, as compared to filing a civil suit, are that it offers faster resolution, greater confidentiality, fewer evidentiary restrictions, and lower expenses than court proceedings, while still offering an independent review of the complaint and affording the same remedies that a court can provide.

Important Note: Disputes relating to requestor-initiated safety and health inspections, violations of accessibility laws, and unfair labor practices are handled differently than disputes through ADR. Please contact the OOC for additional information.

Who can use the CAA’s dispute resolution procedures?

The ADR process applies to over 30,000 employees of the Legislative Branch, including the employees of the:

House of Representatives and Senate (Washington, D.C., State, and District Staff)
Congressional Budget Office
Office of the Architect of the Capitol
Office of the Attending Physician
Office of Compliance
Office of Congressional Accessibility Services
United States Capitol Police

In certain instances, job applicants and former employees are protected by the CAA. Certain provisions of the CAA also apply to the Government Accountability Office and to the Library of Congress.

What types of claims are asserted through the ADR process?

Claims made under the following laws must be asserted through the ADR process:

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990 (Title I)
- Employee Polygraph Protection Act of 1988
- Fair Labor Standards Act of 1993
- Family and Medical Leave Act of 1993
- Genetic Information Nondiscrimination Act of 2008
- Rehabilitation Act of 1973
- Title VII of the Civil Rights Act of 1964
- Uniformed Services Employment and Reemployment Rights of 1994
- Veterans Employment Opportunities Act of 1998
- Worker Adjustment and Retraining Notification Act of 1989

In addition, all claims relating to reprisal, intimidation, or retaliation for asserting workplace rights under the CAA are handled through the ADR process, including claims of retaliation for filing requests for inspection under the Occupational Safety and Health Act of 1970.

Multi-Step Process for Dispute Resolution at the Office of Compliance

The Office of Compliance encourages employees to know the internal policies and complaint procedures which may exist in their offices and to avail themselves of those procedures should that be appropriate for resolution of their workplace issues.

Step One: Counseling

The first step in the dispute resolution process is to file a written request for counseling with the OOC. The CAA imposes a 180-day time limit for filing a claim with the OOC. The counseling period normally last for 30 days, but may be reduced at the request of the employee.

During the counseling period, an OOC counselor will discuss an employee's concerns and inform the employee of his or her rights under the CAA. Discussions between the employee and the OOC counselor during the counseling period are strictly confidential. The counselor does not serve as a representative or advocate, only as a guide to help an individual understand how the law works and to clarify facts and issues.

Step Two: Mediation

If an employee chooses to continue with the claim after the counseling period, the employee must make a written request for mediation with the OOC within 15 days of receiving notification of the completion of the counseling period. Mediation lasts for 30 days unless both parties agree to request an extension of time, and the OOC approves the extension.

During confidential mediation, the OOC appoints one or more neutral mediators who will meet with the parties to the dispute to seek a mutually acceptable solution to the problem, such as a negotiated settlement. Mediation permits the parties to resolve a dispute promptly and avoid a formal adversarial complaint process. Mediation allows the issues and options to be explored in a strictly confidential environment. The mediator never shares information from one party with another, unless given express permission to do so. The mediator has no authority to impose a solution on the parties. Resolution is voluntary, and the terms of agreement are determined by the parties, subject to approval by the Executive Board of the OOC.

The employee may engage in the mediation process through a representative, and there is no requirement that the employee be present or in the same location as the employing office during the mediation session.

Step Three: Adjudication of Disputes Through Administrative Hearing or Civil Action

If mediation fails to resolve the dispute, the employee may either file an administrative complaint and proceed with a confidential administrative hearing at the OOC, or file a civil suit in federal district court. Once a forum is selected, an employee may not seek to file a complaint in the other forum. Either course of action must be initiated within 90 days (but no sooner than 30 days) of the date the employee receives written notice that mediation has ended.

If the employee chooses to pursue an administrative hearing after mediation, the employee must file a written complaint with the OOC. A copy of the complaint will be served on the employing office which has 15 days to respond. An independent hearing officer is assigned to conduct the hearing to determine the facts and may issue subpoenas, order witness testimony, and require information from the parties. An administrative hearing normally begins within 60 days after a complaint is filed (but no later than 90 days), and the hearing officer will issue a written decision no later than 90 days after hearing's conclusion.

If the employee chooses to proceed with a civil suit after mediation, the suit and any appeals will proceed under the rules that normally apply to actions in federal court. Most cases filed in federal court are public. Employees who work on Capitol Hill who choose to file a civil suit after mediation normally do so with the U.S. District Court for the District of Columbia, the employee may choose to file suit in the U.S. District Court where the employee works.

Step Four: Appeals

After an administrative hearing if either the employee or the employer is dissatisfied with the final decision of the hearing officer, a request may be made to have the hearing officer's decision reviewed by the Board of Directors of the OOC. A petition for review by the Board of Directors must be made within 30 days of the time the hearing officer's decision is entered into the records of the OOC. After review, the Board will issue a written decision on the case along with its reasoning for the decision. If the employee or the employer is dissatisfied with the Board of Directors' ruling, the decision may be appealed to the U.S. Court of Appeals for the Federal Circuit for further review. The Board typically publishes its final decisions.

If the case proceeds to a civil suit, appeals of federal district court decisions will proceed under the rules that normally apply to appeals in federal court, usually this means an appeal to the appropriate U.S. Court of Appeals.

Counseling – Requested within 180 days of violations; Length of stage: 30 days and may be reduced at the request of the employee.	
Mediation – Requested within 15 days after notice of end of counseling is received; Length of stage: 30 days, unless extended by mutual agreement	
Election of Remedy – No later than 90 days and no sooner than 30 days after the end of mediation period	
Administrative Proceeding Before a Hearing Officer – Hearing commences within 60 days of complaint, unless extended for up to 30 days. Decision issued within 90 days of end of hearing	Judicial Proceeding in Federal District Court
Appeal to OOC Board of Directors – No later than 30 days after hearing officer decision	U.S. Court of Appeals
Appeal to U.S. Court of Appeals for the Federal Circuit	

Awards, Penalties, and Attorney’s Fees

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

Representation

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

The Office of Compliance advances workplace rights, safety, health, and accessibility in the legislative branch, which includes Congress and its agencies. Established as an independent agency by the Congressional Accountability Act of 1995 (CAA). The OOC educates employees and employing offices about their rights and responsibilities under the CAA, provides an impartial dispute resolution process, and investigates and remedies violations of the CAA.

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This information does not constitute advice or an official ruling of the Office of Compliance or the Board of Directors and is intended for educational purposes only. For further information, please refer to the Congressional Accountability Act (2 U.S.C. 1301 et seq.) and the regulations issued by the Board, or you may contact the Office of Compliance.