



What's New at the Office of Compliance

Member Offices Honored

Office of Compliance General Counsel Peter Ames Eveleth presented seven Capitol Hill Member Offices with a Certificate of Recognition in January 2006 for maintaining safe, healthy and accessible workplaces. The offices acknowledged had no violations during a recent inspection period.

During the awards ceremony, General Counsel Eveleth noted that the Offices' achievement is a testament to comprehensive quality management in their respective congressional offices. "Everyone who has worked in the field of health and safety recognizes that hazard-free organizations requires leadership from the top-down," Eveleth said.

Office of the General Counsel Issues Historic Complaint

In 2006, the Office of the General Counsel of the Office of Compliance issued its first-ever complaint when it notified the Architect of the Capitol of its failure to abate hazardous working conditions in the miles of utility tunnels that run below Capitol Hill.

The potentially life-threatening hazards cited in the complaint were originally brought to the attention of the Architect of the Capitol in 2000. These hazards include large sections of falling concrete, lack of ability to communicate in an emergency, and very long distances between entry and exit points. Other hazards, including exposure of workers to friable asbestos fibers and heat levels over 130 degrees, were the subject of additional citations.

Today, the Office of the General Counsel is pursuing its litigation responsibility against the Architect of the Capitol, while still actively pursuing a settlement to mutually resolve these serious safety and health hazards.



General Counsel Peter Ames Eveleth with the Certificate of Recognition recipients. Pictured left to right: Kris Hanisch of Sen. Wayne Allard's office, Whitney Dunn of Sen. George Allen's office, General Counsel Peter Ames Eveleth, Kelly Mixon of Rep. Roger Wicker's Office, David Gillies of Rep. Jerry Costello's office, Steve Sidorek of Rep. Dan Boren's office, and Deborah Chusmir of Rep. Doris Matsui's office. Not pictured: Representative from the office of Representative Major Owens.

Office of the General Counsel Welcomes New Staff

Four new staff members joined the OGC staff in 2006. **Luis Guzman** was hired as the OGC's first full-time Occupational Safety and Health Specialist. Guzman brings 26 years of experience in the health and safety field with the Social Security Administration. **Michelle Davy** joined the staff from private practice where she managed her own firm and specialized in civil litigation and Title VII representation. Davy brings prior experience as a personnel attorney with the Central Intelligence Agency. **James Valentine** came to the Office of the General Counsel upon completing service with the U.S. Marine Corps, where he served in criminal appellate litigation. Valentine retains the rank of Major Select in the Marine Reserve Corps. **David Young** was hired as a Management/Program Analyst to support the biennial inspection process, and monitor and track the abatement of violation. Young is a 2005 graduate of Taylor University in Upland, Indiana.

inside this issue

2006



In Focus:
Safe Office Checklist
Page 3



Guest Feature:
Senator Wayne Allard
Page 2

- 2 **Message from the General Counsel:**
Meeting Our Goals for a Safer, Healthier, and More Accessible Legislative Branch
- 4 **The Year in Review:**
Cases Handled in FY 2006
- 5 **Know Your Rights:**
OSHA Law in the Legislative Branch Workplace

Message from the General Counsel

Meeting Our Goals for a Safer, Healthier, and More Accessible Legislative Branch



Under the Congressional Accountability Act (CAA), the highest priority of our office is to assure that legislative branch employees have a safe and healthy work environment and that visitors with disabilities have equal access to Capitol Hill facilities and programs.

When I began my term as General Counsel in 2003, I resolved to take aggressive measures to meet these priorities. I vowed to undertake a full and accurate assessment of safety and health and accessibility conditions in all Washington, D.C.-area covered employing offices; to develop a cooperative relationship with each employing office; and to raise awareness

of health, safety, and disability access issues. Our commitment to these goals has made the legislative branch a safer, healthier, and more accessible place for all employees and visitors. But that is just the beginning.

The CAA requires the General Counsel to conduct inspections and report to Congress with respect to Occupational Safety and Health Act (OSHA) and Americans with Disabilities Act (ADA) public access each Congress. In the past, we did not have sufficient resources to fully conduct these inspections. During the 109th Congress, we completed the first baseline inspection of all Washington, DC metropolitan area facilities. Over 13,000 OSH violations were identified, a sharp contrast to the 360 violations found during the 107th Congress and the 2,600 violations during the 108th Congress. More hazards were identified because we had additional resources to bring on more inspectors, who were able to inspect more facilities and inspect them more thoroughly.

Identifying hazards is just the first step toward improving health and safety. All hazards must be abated, and the most serious must be abated first. Many violations are corrected on the spot or within a short time following inspection. When hazards are not abated timely, formal citations are issued, and if necessary, formal complaints against the responsible office.

The CAA provides any employing office, employee or union representative the right to request an OSH inspection—which may be filed anonymously—at any time. In the case of ADA public access matters, members of the public may also request an inspection.

If you have a concern regarding a health or safety matter in your workplace, you may contact your employer's safety office or call the Office of Compliance (202) 724-9250. Your vigilance makes safety a reality.

A handwritten signature in black ink that reads "Peter Ames Eveleth". The signature is fluid and cursive, with the first name being the most prominent.

Peter Ames Eveleth

Guest Feature Office Safety: Every- one's Responsibility

Senator Wayne Allard (CO),
Chairman of the Senate Appropriations Commit-
tee Subcommittee on the Legislative Branch



In these times of heightened security and elevated threat levels, a safe, healthy, and disability-accessible office is more important than ever. While I am privileged to serve in the United States Senate, I recognize that a safe and accessible office is not a privilege, but rather a fundamental right of all staff members and visitors.

The Office of Compliance, established by the Congressional Accountability Act of 1995, has significantly contributed to the improved health and safety of all legislative branch employees. I applaud the Office for their contributions and continued diligence, but I also recognize that a safe office is not the sole responsibility of the Office of Compliance. Keeping our workplaces safe and accessible requires continuous effort, in-depth education and attention. Most importantly, however, a safe office requires the effort of the entire staff.

I urge Members of Congress, their Chiefs of Staff and Office Managers to engage each staff member—both on Capitol Hill and in District offices—in creating and maintaining a safe and accessible office. Make certain staff members know what to look for in their individual workspaces; include safety, health, and accessibility training in orientation for new employees; and regularly inspect both work and public areas for potential code violations. Everyone must be equipped with the knowledge and tools to keep themselves safe, and everyone must be diligent in maintaining a safe and accessible office.

Take a look around your desk; take a walk around the office. If anything looks potentially hazardous or inaccessible, alert the appropriate member of your office. Make sure you know who to call for repairs or who to talk to about accommodating a visitor with a disability. If your Member, Chief of Staff, or Office Manager is not receptive to your concerns or ques-

Guest Feature continued.

tions, please share with them this call to action. Don't be afraid to speak up for your own safety.

All legislative branch employees, including any Member of Congress, may contact the Office of Compliance with health, safety or accessibility questions, or to request an inspection of a possible Occupational Safety and Health Act (OSHA) or Americans with Disabilities

Act (ADA) non-compliance. The Office of Compliance's web site, www.compliance.gov, is also a great resource, especially for District office staff.

Members of Congress spend countless hours working to ensure the health and safety of the American public. Yet, it can be easy to overlook the health and safety of those closest to us—our Congressional staff and visitors. I encour-

age Chiefs of Staff and Office Managers to place necessary tools in employees' hands, and I urge every staff member to be aware of safety conditions. A truly safe, healthy and disability-accessible workplace will only be realized when each staff member is empowered to take the necessary steps to ensure his or her own health and safety.

In Focus

Safe Office Checklist

In legislative branch offices on Capitol Hill and across the country, employees often attempt to use 21st century electronic equipment in spaces that may have been designed decades ago. These unique working environments can lead to many health and safety hazards.

Regardless of whether you are an employer or employee, staying alert to potential office dangers will help make your office a safer place to work. This checklist can help you identify such dangers.

Electrical Safety

- Power cords and plugs for electronic devices are free of damage.
- All electrical equipment is approved for commercial use by a nationally recognized testing laboratory.
- Extension cords are used for fewer than 90 days.
- All electrical equipment is plugged directly into a surge protector or into an outlet. All surge protectors are plugged directly into outlets, not into another surge protector.
- Electrical devices requiring grounding have 3-pronged plugs.
- The energized wiring in modular furniture is properly covered.
- Electrical outlets and switches have faceplates and are free of any damage.
- Multitap (multiple plug-ins) and light duty extension cords are not in use.
- Electrical outlets within six feet of a sink have ground fault circuit interrupter (GFCI) protection.

Fire Safety

- All space heaters have a tip-over switch, which automatically turns the unit off if it tips over.
- All exit paths are at least 28 inches wide and free of obstructions.
- All ceiling tiles are in place and undamaged.

- All materials are stored lower than 18 inches below the plane of fire sprinkler heads.
- No power cords run under carpets.

Mechanical Hazards

- The blade guards on all electric fans are in good condition and do not have any openings larger than 1/2 inch.
- All straightedge cutters are equipped with a guard to keep fingers from getting under the blade.



- Stored materials are stable and are not prone to falling over. All shelving is anchored to the wall.

Trip and Fall Hazards

- File and storage cabinets are arranged so that the drawers and doors do not block walkways.

- Power or communications cords across a walkway are covered to prevent tripping.
- Stepladders do not have missing, loose, or broken rungs or braces.
- Area carpets are secured in place and are in good condition.
- Floors have no slippery spots.

Emergency Response

- All employees are familiar with the office's emergency action plan.
- All employees understand how to properly respond to emergencies, including the evacuation of visitors and individuals with a disability.
- Electrical panels are not blocked, so they may be easily accessed during an emergency.

Safety Considerations for Employees and Visitors With Disabilities

- Routes to all areas with in the office are at least 36 inches wide to accommodate wheelchairs.
- A specialized emergency evacuation plan is available.
- Necessary specialized alarm devices are available.
- Office staff is aware of the nearest staging area or wheelchair-accessible exit discharge.

Cases Handled by the Office of Compliance in Fiscal Year 2006

Each year the Office of Compliance is required to report to Congress statistics on the use of the Office by covered employees. The following statistics are from the latest report covering the period October 1, 2005 through September 30, 2006.

Contacts and Cases with the Office of Compliance:

Initial Contacts Received by the Office	352
Requests for Counseling	53
Cases in Mediation	60
Appeals to the Board of Directors	5

Case Notes:

- An employee alleged that he was unfairly passed over for promotion because of his age, when a substantially younger employee with less seniority was selected for the position.
- Required to work late several evenings to get ready for a special event, an employee alleged that his rights under the Fair Labor Standards Act provisions of the CAA were violated when he was denied overtime pay.
- An employee alleged that she was being discriminated against because of her disability when her supervisor began to harshly scrutinize her work and made derogatory comments following her request for a reasonable accommodation.
- An employee alleged that she was subject to sex discrimination and retaliation when she received a disciplinary action after objecting to being paid less than her male counterpart.
- After being terminated for abuse of leave, an employee requested counseling with the Office of Compliance alleging disability discrimination.

Contacts and Cases with the Office of the General Counsel:

Requests for Information and Technical Assistance	259
Occupational Safety Inspection Requests	21
Unfair Labor Practice Charges	2
Disability Access Discrimination Charge	1

Case Notes:

- More than 30% of the Office of the General Counsel's Occupational Safety and Health (OSH) cases that had remained unabated for more than 12 months were resolved.
- The Office of the General Counsel completed a 99% baseline inspection of covered facilities on Capitol Hill during the 109th Congress. Inspection of this nearly 17 million square feet of space has not previously been accomplished in a single biennial inspection cycle.
- The General Counsel has resolved a significant number of cases involving emergency egress problems in the Library of Congress. Abatement has been accomplished through additional training of the LOC police, and implementation of new policies regarding alarm systems and the evacuation of persons with disabilities.

Office of Compliance Dispute Resolution Process

The CAA provides a mandatory alternative dispute resolution (ADR) process of counseling and mediation for the settling of disputes. If the parties involved are not able to resolve their dispute through counseling and mediation, an employee may either pursue a non-judicial administrative hearing with the Office of Compliance or file suit in Federal court. Administrative hearing decisions can be appealed to the Board of Directors of the Office of Compliance.

General Counsel of the Office of Compliance

The General Counsel of the Office of Compliance is responsible for investigating and enforcing certain violations of the CAA. Labor/Management relations, occupational safety and health laws, and discrimination against the disabled in access and accommodations to public events and spaces are all under the General Counsel's jurisdiction.

Do you have a question about your rights under the CAA or wish to file a complaint? Contact the Office of Compliance at 202-724-9250. Concerns about health and safety, labor-management relations, or public services and accommodations for the disabled should be referred to the General Counsel's office at 202-724-9292. All contacts are strictly confidential.

Know Your Rights

OSHA Law in the Legislative Branch Workplace

Until ten years ago, federal safety and health laws applicable to other federal and private sector employees were not enforceable for employees working in the legislative branch. Since the passage of the Congressional Accountability Act (CAA) and the creation of the Office of Compliance in 1995, however, legislative branch employees are protected by the regulations of the Occupational Safety and Health Act (OSHA).

Specifically, Section 215 of the CAA stipulates that all legislative branch employees work in an environment that complies with the OSHA standards that require public and workplace areas to be free of recognized hazards that are likely to cause death or injury.

Any legislative branch employee can file a “Request for Inspection” with the Office of the General Counsel of the Office of Compliance regarding workplace health or safety concerns. The General Counsel then investigates the practices and procedures that led to the request. The CAA also requires that the General Counsel inspect all legislative branch facilities once each Congress, and report to the Speaker of the House and the President pro tempore of the Senate on compliance with workplace safety regulations.

However a violation is discovered, the CAA provides the General Counsel with several options to achieve abatement of

hazards. The General Counsel may give the responsible office a deadline by which it must correct the violation. If compliance is not achieved, the General Counsel may issue a formal citation. Where no violation exists, the General Counsel may recommend “best practices,” which are non-mandatory recommendations to improve health and safety.



The CAA further requires that the employing office responsible for the hazard take appropriate action to correct conditions that are in violation of OSHA

standards. If a hazardous condition is not corrected once a citation is issued, the General Counsel can file a complaint before a Hearing Officer with the Office of Compliance and seek an order mandating the correction of the violation.

Any employee or employer in the legislative branch—whether in Washington, DC or a District office—may contact the Office of the General Counsel with a health or safety question, or to report a potential violation. The General Counsel may provide informal guidance, or may conduct a full investigation if a formal Request for Inspection is filed. Such a request may be filed anonymously by contacting the Office of the General Counsel at (202) 724-9251.

More information on Section 215 and all other areas of the CAA is available on our web site, www.compliance.gov. This site is also a great resource for additional health and safety information, including our most popular product, *Fast Facts*. These informational materials cover topics ranging from proper space heater use and extension cords to fire doors and smoke detectors. All legislative branch employees are encouraged to view these materials and share them with colleagues.

CAA news

Tamara E. Chrisler
Acting Executive Director

Rachel Berg Scherer
Editor, CAANews

Office of Compliance

Room LA 200, John Adams Building

Phone: 202-724-9250

TDD: 202-426-1912

Recorded Information Line: 202-724-9260

www.compliance.gov

The Office of Compliance protects the safety, health, and workplace rights of employees of the U.S. Congress and the Legislative Branch. Established by the Congressional Accountability Act of 1995, the Office is an independent agency that provides an impartial dispute resolution process and educates employees and employing offices about their rights and responsibilities under the Act.

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.

Your Rights and Protections Under the Congressional Accountability Act

The Congressional Accountability Act (CAA) applies eleven civil rights, labor, and workplace safety laws to the U.S. Congress and Legislative Branch employees

Access to Public Services and Accommodations

Section 210 of the CAA protects qualified individuals with disabilities from discrimination with regard to access to public services, programs, activities, or places of public accommodation in covered locations and offices. These protections extend to both employees and members of the public.

Age Discrimination

Section 201 of the CAA provides that all personnel actions affecting covered employees shall be free from age discrimination for those forty years old or older. This includes hiring, discharge, promotion, pay, benefits, reassignment, and other personnel actions affecting the terms and conditions of employment.

Collective Bargaining and Unionization

Section 220 of the CAA permits certain Legislative Branch employees to form, join, and assist a labor organization. Once a labor organization becomes the exclusive bargaining representative of employees, an employer is obligated to negotiate the terms and conditions of employment with that organization.

Disability Discrimination

Section 201 of the CAA provides protection against discrimination in all personnel actions of qualified individuals with disabilities. Personnel actions include hiring, discharge, promotion, pay, benefits, reassignment, and other actions affecting the terms, conditions, and privileges of employment. Employing offices may be required to make a "reasonable accommodation" for an otherwise qualified individual with a disability.

Equal Opportunity Employment

Section 201 of the CAA requires that all personnel actions involving covered employees must be free from discrimination based on race, color, religion, sex, or national origin. Personnel actions include hiring, discharge, promotion, pay, and benefits.

Fair Labor Standards and the Minimum Wage

Section 203 of the CAA applies the Fair Labor Standards Act of 1938 (FLSA) to covered employees. These rights and protections require payment of the minimum wage and overtime compensation to nonexempt employees, restrict child labor, and prohibit sex discrimination in wages paid to men and women.

Family and Medical Leave Act

Section 202 of the CAA applies the benefits of the Family and Medical Leave Act of 1993 (FMLA) to covered employees. Eligible employees are entitled to take up to twelve weeks of leave in a twelve month period for certain family and medical reasons. Employees on leave continue to receive health insurance benefits and should be restored to their former position at the conclusion of leave.

Notification of Office Closings or Mass Layoffs

Section 205 of the CAA applies the rights and protections of the Worker Adjustment and Retraining Notification Act (WARN Act) to covered employees, and requires that employees must be notified of an office closing or of a mass layoff at least sixty days in advance of the event.

Occupational Safety and Health

Section 215 of the CAA requires that all workplaces be free of recognized hazards that might cause death or serious injury. Both employing offices and employees must comply with these workplace safety requirements.

Prohibition on the Use of Lie Detector Tests

Section 204 of the CAA applies provisions of the Polygraph Protection Act to the Legislative Branch. Requiring or requesting that lie detector tests be taken; using, accepting, or inquiring about the results of a lie detector test; or firing or discriminating against an employee based on the results of a lie detector test or for refusing to take a test are all prohibited.

Reprisal and Intimidation

An employer may not intimidate, retaliate, or discriminate against employees who exercise their rights applied by the CAA. This includes opposing practices made unlawful by the CAA; initiating proceedings; making a charge; providing testimony; or participating in a proceeding brought under the CAA. Those who assist others in these activities are also protected.

Uniformed Services Rights and Protections

Section 206 of the CAA applies the rights and protections of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) to covered employees. USERRA protects employees performing service in the uniformed services from discrimination and provides certain rights to benefits and reemployment upon the completion of service.



Office of Compliance

Room LA 200, John Adams Building
110 Second Street, SE
Washington, DC 20540-1999

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