



WORKPLACE RIGHTS FOR CONGRESSIONAL EMPLOYEES

OFFICE OF COMPLIANCE—ADVANCING
WORKPLACE RIGHTS, SAFETY, 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 ALSO ESTABLISHES A DISPUTE RESOLUTION PROCEDURE, ADMINISTERED BY THE OFFICE OF COMPLIANCE (OOC), THAT EMPHASIZES CONFIDENTIAL COUNSELING AND MEDIATION FOR THE EARLY RESOLUTION OF WORKPLACE RIGHTS DISPUTES. IF COUNSELING AND MEDIATION FAIL TO RESOLVE THE MATTER, A CONGRESSIONAL EMPLOYEE HAS THE RIGHT TO PURSUE FURTHER ADJUDICATION OF HIS OR HER CLAIM, EITHER THROUGH A CONFIDENTIAL ADMINISTRATIVE HEARING AT THE OOC OR IN FEDERAL COURT.

WHO IS COVERED BY THE CAA?

The CAA protects over 30,000 employees of the Legislative Branch, including employees of:

**HOUSE OF REPRESENTATIVES
AND THE SENATE (WASHINGTON, D.C.,
STATE, AND DISTRICT OFFICE 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, former employees, job applicants, and members of the public may also be protected by the CAA. The CAA also covers employees in the Government Accountability Office and the Library of Congress with regard to safety and health laws.

WHAT WORKPLACE RIGHTS DO CONGRESSIONAL EMPLOYEES HAVE UNDER THE CAA?

ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS

Section 210 of the CAA applies Titles II and III of the Americans with Disabilities Act of 1990 (ADA), which protects members of the public who are qualified individuals with disabilities from discrimination with regard to access to public services, programs, activities, or places of public accommodation in Legislative Branch facilities.

- The law may require offices to provide an accommodation for someone with a disability.
- Charges of discrimination are investigated by the General Counsel of the OOC.
- Access requirements, in general, are limited to public spaces.

COLLECTIVE BARGAINING AND UNIONIZATION

Section 220 of the CAA applies chapter 71 of the Federal Services Labor-Management Relations Act, which protects the rights of certain Legislative Branch employees to form, join, or assist a labor organization, or to refrain from such activity. Once a labor organization becomes the exclusive bargaining representative of employees, an employer is obligated to bargain in good faith over the terms and conditions of employment with that organization.

- Only limited categories of Legislative Branch employees are permitted to unionize.
- Employees vote to approve the selection of a labor organization as their representative.
- Legislative Branch employees are not permitted to go on strike.

FAIR LABOR STANDARDS

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

- Non-exempt employees are entitled to minimum wage and to compensation for overtime work.
- Executive, administrative, or professional employees who meet defined criteria are exempt from the overtime wage and hour requirements.
- The FLSA does not apply to properly classified interns.

FAMILY AND MEDICAL LEAVE

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 12 weeks of leave in a 12 month period for certain family and medical reasons.

Eligible employees who have a spouse, son or daughter, or parent who is on active duty or called to active duty status in the National Guard or Reserves (or has been called from retirement in the Armed Services or Reserves) in support of a contingency operation for certain “qualifying exigencies” are entitled to take up to 26 weeks of unpaid leave to care for a covered service member during a single 12 month period.

- Employees on leave continue to receive health insurance benefits and should be restored to their former position at the conclusion of leave.
- Leave may be taken because of child birth, the adoption of a child, or a serious health condition, or for the care of a family member with a serious health condition.
- Leave may be taken all at once, in separate blocks of time, or on a reduced leave schedule.

GENETIC INFORMATION NONDISCRIMINATION AND PRIVACY

Title II of the Genetic Information Nondiscrimination Act of 2008 applies protections to covered employees under the CAA and prohibits the use of an employee's genetic information as a basis for discrimination in personnel actions such as hiring, discharge, payment, or promotion.

- Information that is protected includes, but is not limited to, genetic information and testing of an individual employee or an employee's family member.
- Harassment because of an employee's genetic information is illegal.
- Family medical history is included in the definition of "genetic information."

HAZARD-FREE WORKSPACES

Section 215 of the CAA applies the rights and protections of the Occupational Safety and Health Act (OSHAct) of 1970 to the Legislative Branch. The OSHAct 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, including proper emergency evacuation plans.

- At least once each Congress, the General Counsel of the OOC must inspect all Legislative Branch facilities for compliance with health and safety regulations.
- The General Counsel investigates alleged violations of workplace safety standards and ensures that unsafe working conditions are abated.
- The CAA requires that employing offices correct unsafe working conditions.

NO DISCRIMINATION OR HARASSMENT

Section 201 of the CAA applies certain sections of the following acts to covered employees: Title VII of the Civil Rights Act of 1964, Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act of 1990, and Age Discrimination in Employment Act of 1967. These laws require that all personnel actions involving covered employees must be free from discrimination based on race, color, religion, sex, national origin, age, and disability.

- The term “personnel actions” includes hiring, discharge, promotion, pay, benefits, reassignment and other personnel actions affecting the terms and conditions of employment.
- Employees are also protected from harassment based on race, color, religion, sex, national origin, age, and disability.

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 be notified of an office closing or of a mass layoff at least sixty days in advance of the event.

- Notice of a closing or layoff must be provided to either the affected employees or to their representatives (for example, a labor union), and must be in writing.
- Employing offices are covered by these provisions only if they are of a certain size.
- Special provisions apply to temporary employees.



POLYGRAPH TESTING PROTECTIONS

Section 204 of the CAA applies provisions of the Polygraph Protection Act of 1998 to the Legislative Branch. With certain exceptions, these provisions prohibit 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.

- Both current and prospective employees are protected.
- Some employees are excepted from protection, including the U.S. Capitol Police and those who work with top secret intelligence information.
- Drug and alcohol screening and written personality tests are not prohibited.

REDRESS FOR VIOLATIONS OF THE CAA

The CAA provides that employees may be entitled to certain remedies for violations of the CAA which may include monetary awards, attorney's fees, costs, reinstatement, promotion, or backpay. No civil penalties or punitive damages may be awarded for any claims under the CAA.

REPRISAL OR INTIMIDATION PROHIBITED FOR EXERCISING WORKPLACE RIGHTS

Section 207 of the CAA provides that an employer may not intimidate, retaliate, or discriminate against employees who exercise their rights applied by the CAA. This protection includes opposing practices made unlawful by the CAA, initiating proceedings, making a charge, providing testimony, assisting, or participating in a hearing or other proceeding brought under the CAA.

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). USERRA protects employees who are performing service in the uniformed services from discrimination and provides certain benefits and reemployment rights.

- The term “Uniformed services” includes the Armed Forces (active and reserve), the National Guard, and the Public Health Service.
- Denying initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of uniformed service is prohibited.

VETERANS’ EMPLOYMENT OPPORTUNITIES

Section 4(c) of the Veterans’ Employment Opportunities Act of 1998 gives certain veterans, covered under the CAA, enhanced access to job opportunities and establishes a redress system for preference eligible veterans in the event that their veterans’ preference rights are violated.

- Certain veterans or relatives of certain veterans are considered “preference eligible.”
- Preference eligible employees may get some preference in initial hiring decisions or higher retention standing in the event of layoffs.
- Veterans’ preference does not guarantee the veteran a job or give him or her preference in internal agency actions.

WHAT DOES THE CAA NOT REGULATE?

Individual employing offices still maintain wide discretion in setting many workplace policies, subject to the standards set by House or Senate rules, internal rules, or civil service laws as they may apply to each particular employer. The CAA does not impose uniform workplace practices, such as work schedules, job duties, salaries, vacation and leave policies, holidays, fringe benefits, or procedures for hiring and firing staff.

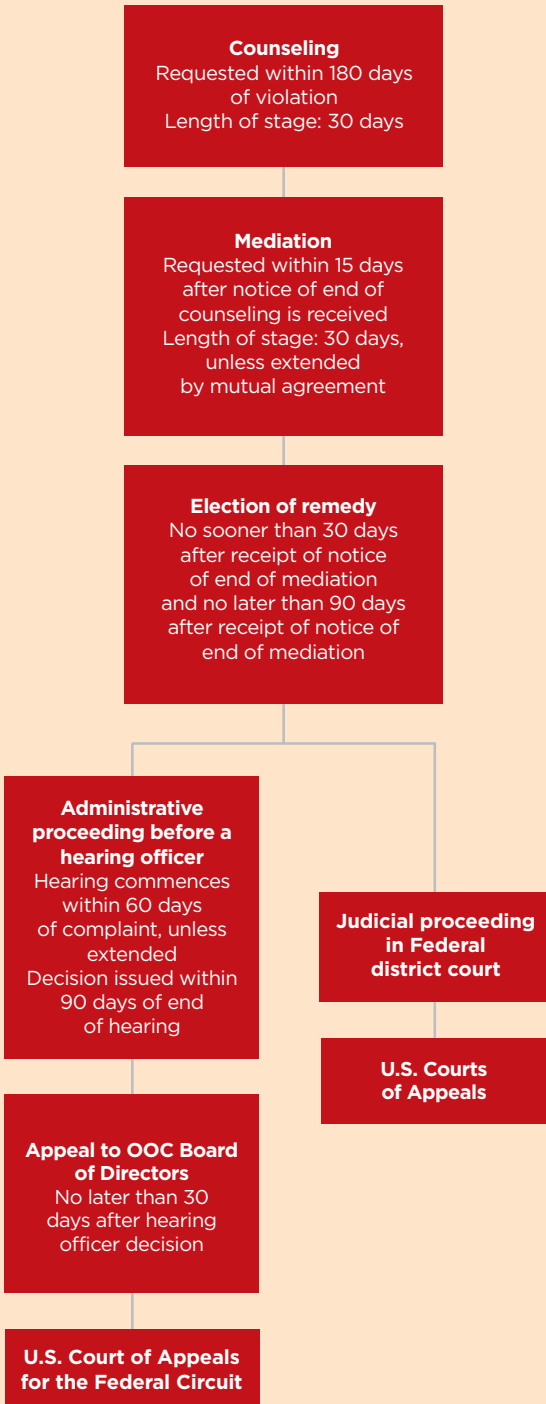
DISPUTE RESOLUTION PROCESS FOR MOST TYPES OF CLAIMS¹

The CAA provides for mandatory alternative dispute resolution (ADR), which includes confidential counseling and mediation for the settling of disputes under most workplace rights laws. In most instances, the CAA imposes a strict 180 day time limit for asserting a violation of workplace rights claim with the OOC. 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 process with the OOC or file a civil suit in federal court. Some advantages of using the OOC's 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 a court forum, while still offering the same remedies that a court can provide.

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

The CAA and its ADR process apply to employees of the Legislative Branch, including employees of and job applicants to the House of Representatives and the Senate; the Congressional Budget Office; the Office of the Architect of the Capitol; the Office of the Attending Physician; the Office of Compliance; the Office of Congressional Accessibility Services; and the United States Capitol Police. In certain instances, applicants and former employees may also be protected. Depending on the circumstances, the OOC will provide services locally to process claims brought by district or state office staff, or the OOC will service the needs of the employee through its Washington, D.C. office.

¹ Requests for inspections under the OSHA Act, charges filed under Titles II and III of the ADA (public access), and disputes under Chapter 71 of the Federal Service Labor-Management Relations Act are resolved through separate processes, also described in this brochure.

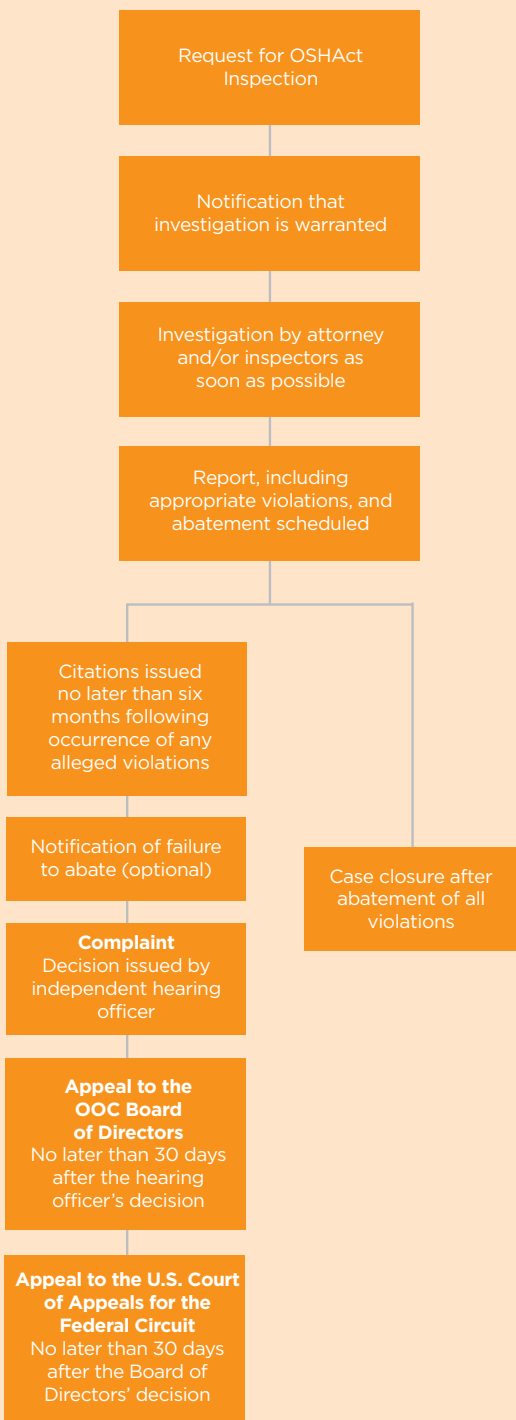


DISPUTE RESOLUTION FOR VIOLATIONS OF OSHA (REQUEST FOR INSPECTION ONLY)

Under the CAA, the Legislative Branch must comply with the OSHAct and its standards requiring that the workplace be free of recognized hazards that are likely to cause death or serious injury. The General Counsel of the OOC inspects Congressional properties biannually for such violations and reports them to the Speaker of the House and President pro tempore of the Senate.

The CAA also provides that a Congressional employee or employing office may file a Request for Inspection to determine if a dangerous working condition exists. Once the request is filed, the General Counsel is responsible for investigating the suspected unsafe working condition.

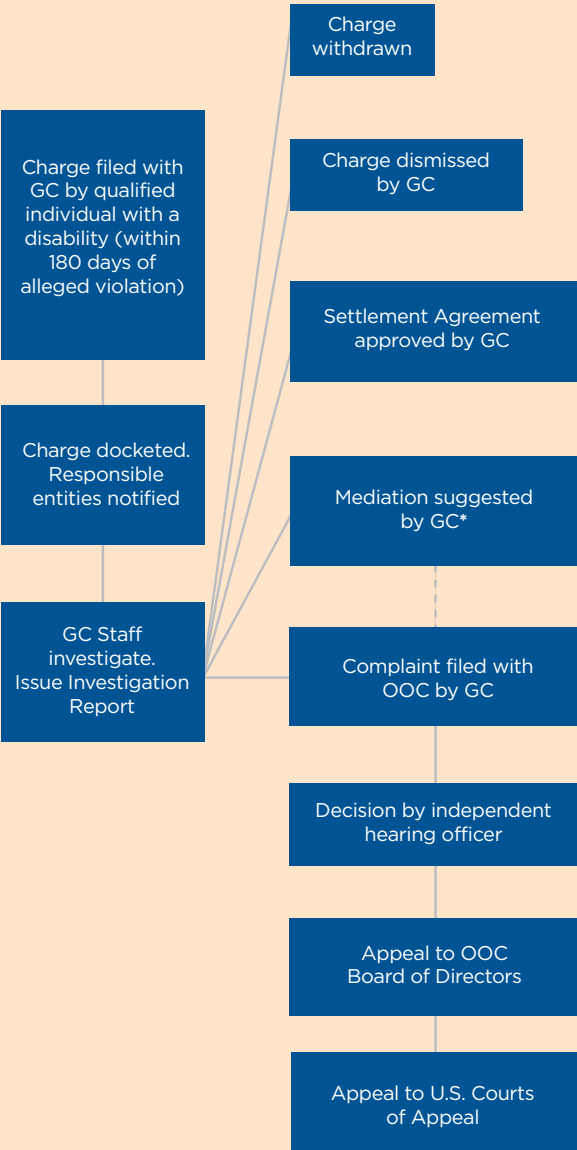
When an investigation reveals a hazardous working condition, the General Counsel may issue a notice citation to the employing office that has exposed employees to the hazard and/or to the office responsible for correcting the violation. The office or offices are then responsible for taking appropriate action to correct conditions that are in violation of safety and health standards. If a hazardous condition is not corrected despite the issuance of a citation, the General Counsel can file a complaint before a hearing officer with the OOC and seek an order mandating the correction of the violation.



DISPUTE RESOLUTION FOR VIOLATIONS OF ADA ACCESSIBILITY LAWS

Under the CAA, the General Counsel of the OOC is required to inspect covered employing office facilities in the Legislative Branch for compliance with the rights and protections against discrimination in the provision of public services and accommodations established by Titles II and III of the ADA.

The CAA also provides for members of the public to file charges of public access violations under the ADA and for the General Counsel to investigate such charges. If an investigation reveals that a violation occurred, the General Counsel may request mediation to resolve the dispute or may file an administrative complaint with the OOC against the entity responsible for correcting the alleged violation.

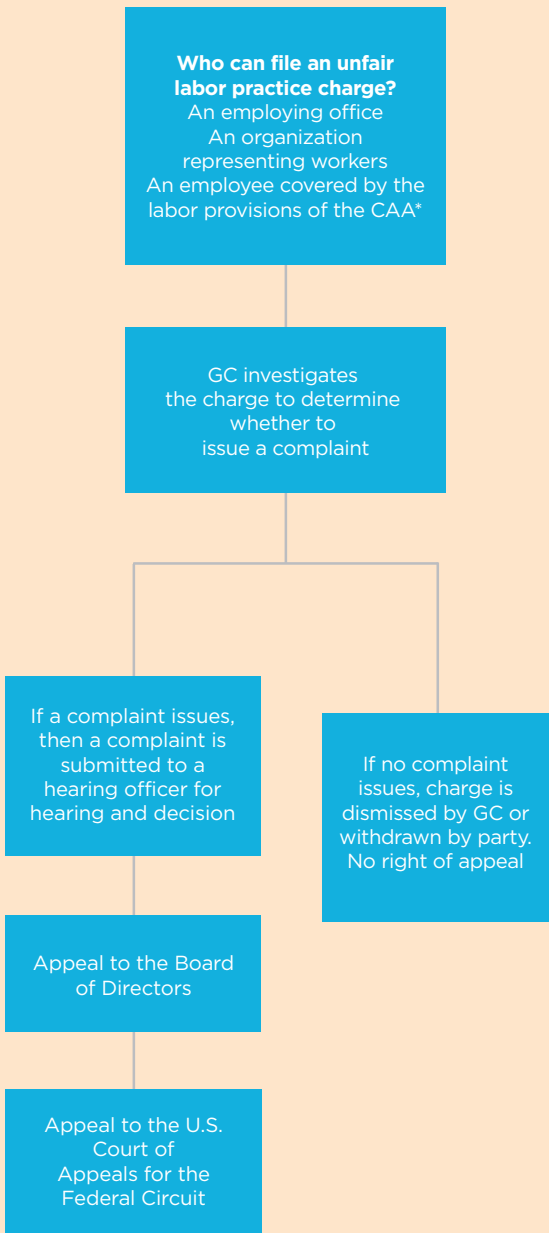


***Mediation is optional and not mandatory**

DISPUTE RESOLUTION FOR VIOLATIONS OF FEDERAL LABOR LAWS

The CAA grants some Legislative Branch employees the right to join a labor organization for the purpose of collective bargaining under Chapter 71 of the Federal Services Labor-Management Relations Act. The CAA protects employees' rights to form, join, or assist a labor organization without fear of penalty or reprisal. It also protects those who choose not to join or participate in a labor organization.

The Board of Directors of the OOC has the authority to issue final decisions on union representation and elections issues, questions of arbitrability, and exceptions to arbitrator's awards. The Board also serves as the appellate body that issues decisions on unfair labor practice complaints. The General Counsel is responsible for investigating allegations of unfair labor practices and prosecuting complaints of unfair labor practices before a hearing officer and the Board.



*** Not all Congressional employees are covered by Chapter 71 of the Federal Service Labor-Management Relations Act.**



THE OOC IS AN INDEPENDENT, NON-PARTISAN AGENCY ESTABLISHED TO ADMINISTER AND ENFORCE THE CAA. THE OOC ADMINISTERS AND ENSURES THE INTEGRITY OF A DISPUTE RESOLUTION SYSTEM TO RESOLVE WORKPLACE DISPUTES THAT ARISE UNDER THE CAA; CARRIES OUT AN EDUCATION AND OUTREACH PROGRAM FOR MEMBERS OF CONGRESS, EMPLOYING OFFICES, AND CONGRESSIONAL EMPLOYEES ABOUT THEIR WORKPLACE RIGHTS AND RESPONSIBILITIES; AND ADVISES CONGRESS ON NEEDED CHANGES AND AMENDMENTS TO THE CAA THAT WOULD ADVANCE CONGRESSIONAL EMPLOYEE RIGHTS. THE GENERAL COUNSEL OF THE OOC HAS INDEPENDENT INVESTIGATORY AND ENFORCEMENT AUTHORITY FOR CERTAIN SAFETY AND HEALTH VIOLATIONS AND DISPUTES OVER ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS FOR THE DISABLED.



THE OFFICE OF COMPLIANCE (OOC) 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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