

# Current Rules vs. House and Senate CAA Reform Proposals

JUNE 14, 2018 – MOLLY BANGS

	Current Rules	H.R. 4924 and H. Res. 724	S. 2952
<b>Legal Counsel to Congressional Members/Senators vs. to Staffers</b>	Members/Senators receive advice/counsel from taxpayer-funded Office of Employment Counsel, staffers do not	Provides congressional staffers with a confidential legal advocate at all stages of proceedings before Office of Compliance and Committee on Ethics; this legal representation is provided free of charge under H. Res. 724, which adjusted the chamber's internal rules	Prohibits a licensed attorney who has been designated a confidential advisor from providing legal advice once an individual has filed a claim
<b>Claimant Rights During Pending Procedures</b>	No designated protections for alternate work arrangements or retaliation/reprisal	Claimants may request to work remotely or to take a paid leave of absence if duties cannot be carried out remotely; are protected against retaliation or reprisal	Claimants may request to work remotely or to take a paid leave of absence if duties cannot be carried out remotely; are protected against retaliation or reprisal. Clarifies that any paid leave taken shall not have effect on vacation or personal leave
	Counseling confidential with exceptions of notifying claimant's employment office; mediation confidential	Strengthens confidentiality in that mandatory counseling is ended and all claims and investigations, as well as any information disclosed during the process of mediation, shall remain confidential	Strengthens confidentiality in that mandatory counseling is ended and all claims and investigations, as well as any information disclosed during the process of mediation, shall remain confidential
<b>Mediation and Formal Hearings</b>	Claimants forced to undergo months of counseling and mediation processes, which can take place "separately or jointly"—does not specify which party makes this decision. Only more than thirty days after mediation is completed can a claimant file a civil action, which is then considered for a hearing by a hearing officer appointed by the executive director of the Office of Compliance. If the hearing request is not dismissed, court proceedings must start sixty to ninety days after complaint was filed	Ends mandatory mediation process, though claimants and their employing offices may jointly request mediation at any time during an investigation. Formal hearing must begin forty-five days after claimant approaches Office of Compliance (renamed the Office of Congressional Workplace Rights)	Requires claimants to opt out of mediation process within ten days of filing initial claim. Allows for mediation processes to proceed separately at request of claimant. Election of formal hearing or civil action may be filed after mediation process subject to judicial review in the U.S. Court of Appeals. Formal hearings must begin ninety days after mediation is opted out of or mediation process ends
<b>Ethics Committee and Protection of Personally Identifiable Information</b>	No explicit mention of protecting personally identifiable information	Ethics Committee is required to protect the identity, position, or any other personally identifiable information of claimant	Ethics Committee is required to protect the identity, position, or any other personally identifiable information of claimant. Committee is allowed to retain unredacted reports

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<b>Ethics Committee and</b>	Reimbursements to either the Treasury or office funds are not currently required	If a payment is made for a settlement in a case where a member/senator is the perpetrator, the member/senator is responsible for reimbursing the account for that amount of money. If this reimbursement is not made within ninety days of the settlement being paid, amounts of their salary will be withheld. No House funds may be used for reimbursements. Creates a third-party investigatory process for settlements	If a payment is made for a settlement in a case where a member/senator is the perpetrator, the member/senator is responsible for reimbursing the account for “compensatory damages.” The chair and ranking member of Ethics Committee are given the authority to overrule settlement repayments when a member/senator is the perpetrator, determining whether or not the reimbursement of funds paid by the Treasury is appropriate (as well as whether to investigate the claim against the perpetrator at all)
<b>Defining Harassment</b>	Uses definition of harassment established by Supreme Court case <i>Meritor Savings Bank v. Vinson</i> (1986): “must be sufficiently severe or pervasive to alter the conditions of [the victim’s] employment and create an abusive working environment”	Simply refers to sexual harassment	Uses “severe or pervasive” language to define a violation, as well as the phrase “unwelcome harassment”
<b>Transparency of Past Offenses</b>	Financial disclosure reports have to be filed with the clerk of the House of Representatives. No other means of transparency mentioned	Requires the Office of Compliance—renamed the Office of Congressional Workplace Rights—to publish a report online every six months with information on awards and settlements including: the employing office, the amount of money paid, and violations that were claimed, and if the member/senator had repaid the Treasury account. Does not explicitly state whether an office or perpetrating member/senator themselves will be identified in the report	Requires the Office of Compliance—renamed the Office of Congressional Workplace Rights—to publish a report online every six months with information on awards and settlements including: the employing office, the amount of money paid, and violations that were claimed, and if the member/senator had repaid the Treasury account. Does not explicitly state whether an office or perpetrating member/senator themselves will be identified in the report
<b>Extension of Protection from Employment</b>	No explicit protections for unpaid staffers or employees of Library of Congress are currently in place through the Office of Compliance	Unpaid staffers and employees of the Library of Congress are covered. Library employees can follow Congressional procedures or Library procedures	Unpaid staffers and employees of the Library of Congress are covered. Library employees can follow Congressional procedures or Library procedures
<b>Length of Investigation</b>	No deadline for investigation set; if a complaint makes it to court, the decision must be made no more than ninety days after the hearing concludes	Investigation must conclude ninety days after claim is filed	No deadline for investigation set