

2004—Subsec. (a)(2)(B), (C). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

Subsec. (d)(2). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office” in heading and text.

§ 1316a. Legislative branch appointments

(1) Definitions

For the purposes of this section, the terms “covered employee” and “Board” shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) Rights and protections

The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, shall apply to covered employees.

(3) Remedies

(A) In general

The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5 in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) Procedure

The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 [2 U.S.C. 1401] (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act [2 U.S.C. 1311 et seq.].

(4) Regulations to implement section

(A) In general

The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this section.

(B) Agency regulations

The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(C) Coordination

The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) Applicability

Notwithstanding any other provision of this section, the term “covered employee” shall not, for purposes of this section, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5).

(6) Effective date

Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(Pub. L. 105–339, §4(c), Oct. 31, 1998, 112 Stat. 3185.)

REFERENCES IN TEXT

The Congressional Accountability Act of 1995, referred to in par. (3)(B), is Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3. Part A (§§201–207) of title II of the Act is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Veterans Employment Opportunities Act of 1998, and not as part of the Congressional Accountability Act of 1995 which comprises this chapter.

§ 1317. Prohibition of intimidation or reprisal

(a) In general

It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

(b) Remedy

The remedy available for a violation of subsection (a) of this section shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a) of this section.

(Pub. L. 104–1, title II, §207, Jan. 23, 1995, 109 Stat. 13.)

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, as amended, 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 B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER AMERICANS WITH DISABILITIES ACT OF 1990

§ 1331. Rights and protections under Americans with Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations

(a) Entities subject to this section

The requirements of this section shall apply to—

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Office of Congressional Accessibility Services;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Botanic Garden);

(8) the Office of the Attending Physician;

(9) the Office of Compliance; and

(10) the Office of Technology Assessment.

(b) Discrimination in public services and accommodations

(1) Rights and protections

The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a) of this section.

(2) Definitions

For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term “public entity” means any entity listed in subsection (a) of this section that provides public services, programs, or activities.

(c) Remedy

The remedy for a violation of subsection (b) of this section shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.

(d) Available procedures

(1) Charge filed with General Counsel

A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) of this section by an entity listed in subsection (a) of this section, may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) Mediation

If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) of this section may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 1403 of this title between the charging individual and any entity responsible for correcting the alleged violation.

(3) Complaint, hearing, Board review

If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the Gen-

eral Counsel believes that a violation of subsection (b) of this section may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 1406 of this title.

(4) Judicial review

A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 1407 of this title.

(5) Compliance date

If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b) of this section, compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

(e) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) of this section except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Entity responsible for correction

The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for categories of violations of subsection (b) of this section, the entity responsible for correction of a particular violation.

(f) Periodic inspections; report to Congress; initial study

(1) Periodic inspections

On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) of this section to ensure compliance with subsection (b) of this section.

(2) Report

On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible,¹ for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) Initial period for study and corrective action

The period from January 23, 1995, until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b) of this section, to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) of this section by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the One Hundred Fourth Congress.

(4) Detailed personnel

The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) Omitted

(h) Effective date

(1) In general

Subsections (b), (c), and (d) of this section shall be effective on January 1, 1997.

(2) Government Accountability Office, Government Printing Office, and Library of Congress

Subsection (g) of this section shall be effective 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104-1, title II, §210, Jan. 23, 1995, 109 Stat. 13; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-279, §1(g)(2), July 17, 2008, 122 Stat. 2609; Pub. L. 110-437, title IV, §422(b)(3), Oct. 20, 2008, 122 Stat. 4996.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended. Title II of the Act is classified generally to subchapter II (§12131 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Subsection (g) of this section, referred to in subsec. (h)(2), amended section 12209 of Title 42.

¹ So in original. The comma probably should not appear.

CODIFICATION

Section is comprised of section 210 of Pub. L. 104-1. Subsec. (g) of section 210 of Pub. L. 104-1 amended section 12209 of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (a)(4). Pub. L. 110-437 substituted “the Office of Congressional Accessibility Services;” for “the Capitol Guide Service;”.

Subsec. (a)(7). Pub. L. 110-279 substituted “the Botanic Garden” for “the Senate Restaurants and the Botanic Garden”.

2004—Subsec. (h)(2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in heading.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-437 effective first day of first pay period (applicable to employees transferred under section 2241 of this title) on or after 30 days after Oct. 20, 2008, see section 422(d) of Pub. L. 110-437, set out as a note under section 1301 of this title.

Amendment by Pub. L. 110-279 effective July 17, 2008, and applicable to remainder of fiscal year in which enacted and each fiscal year thereafter, see section 2051(i) of this title.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

§ 1341. Rights and protections under Occupational Safety and Health Act of 1970; procedures for remedy of violations

(a) Occupational safety and health protections

(1) In general

Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) Definitions

For purposes of the application under this section of the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.]—

(A) the term “employer” as used in such Act means an employing office;

(B) the term “employee” as used in such Act means a covered employee;

(C) the term “employing office” includes the Government Accountability Office, the Library of Congress, and any entity listed in subsection (a) of section 1331 of this title that is responsible for correcting a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs; and

(D) the term “employee” includes employees of the Government Accountability Office and the Library of Congress.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) Procedures

(1) Requests for inspections

Upon written request of any employing office or covered employee, the General Counsel