

13, 2010, 124 Stat. 2888; Pub. L. 115-141, div. I, title I, § 153(a)(2)(C), Mar. 23, 2018, 132 Stat. 785.)

### Editorial Notes

#### AMENDMENTS

2018—Subsec. (a)(2)(B), (C). Pub. L. 115-141 struck out “and the Library of Congress” after “the Government Accountability Office”.

2010—Subsec. (b). Pub. L. 111-275 substituted “under section 4323(d) of title 38” for “under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38”.

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.)

### Editorial Notes

#### 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.

### § 1316b. Rights and protections relating to criminal history inquiries

#### (a) Definitions

In this section, the terms “agency”, “criminal history record information”, and “suspension” have the meanings given the terms in section 9201 of title 5, except as otherwise modified by this section.

#### (b) Restrictions on criminal history inquiries

##### (1) In general

##### (A) In general

Except as provided in subparagraph (B), an employee of an employing office may not request that an applicant for employment as a covered employee disclose criminal history record information if the request would be prohibited under section 9202 of title 5 if made by an employee of an agency.

##### (B) Conditional offer

For purposes of applying that section 9202 under subparagraph (A), a reference in that section 9202 to a conditional offer shall be considered to be an offer of employment as a covered employee that is conditioned upon the results of a criminal history inquiry.

##### (2) Rules of construction

The provisions of section 9206 of title 5 shall apply to employing offices, consistent with regulations issued under subsection (d).