



Office of Congressional Workplace Rights

February 22, 2022

Via: Electronic Mail

Hon. Zoe Lofgren
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515

Dear Chairperson Lofgren:

I have received your letter dated February 8, 2022 requesting that the OCWR Board of Directors (Board) conduct an expeditious review of the regulations adopted by a previous Board in 1996 that were promulgated under section 220(e)(1) of the Congressional Accountability Act (CAA) [2 U.S.C. § 1351(e)(1)] and would govern unionizing and collective bargaining rights in the personal offices of Members of the House of Representatives or Senators, as well as in committee, leadership and other enumerated offices.

The Board has conducted a thorough review and now unanimously endorses the regulations adopted by the 1996 Board and urges Congress to approve these regulations.

As you know, while Congress has not yet approved the Board's adopted regulations under CAA section 220(e)(1), Congress did approve the Board's adopted regulations under CAA section 220(d) that apply to all covered employees, labor representatives, and employing offices not identified in section 220(e)(2). The section 220(d) regulations are on our website as the Substantive Regulations on Collective Bargaining and Unionization and can be found here: https://www.ocwr.gov/wp-content/uploads/2021/09/final_regulations_lmr_19960930.pdf. The section 220(d) regulations were issued by the Board on October 1, 1996, and became effective on November 30, 1996. Like the regulations under section 220(e), the section 220(d) regulations are required by the CAA to be the same as the comparable FLRA regulations except where good cause exists for a modification that would be more effective for implementation of the rights and protections under this section. Consequently, the regulations issued by the Board in 1996 under section 220(d) closely follow the comparable FLRA regulations. Like the FLRA regulations upon which these regulations are based, the section 220(d) regulations provide procedures for resolving all disputes that may arise during organizing and collective bargaining, including potential exemptions from those rights, in a manner that is both informed and impartial.

The regulations adopted by the Board in 1996 under section 220(e) of the CAA are quite straightforward. They state that the same regulations that apply to all of the other employees, labor representatives, and offices in the legislative branch covered by the CAA (the existing

OCWR Regulations on Collective Bargaining and Unionization) will apply to the employees, labor representatives, and offices listed in section 220(e)(2).

In your letter, you specifically requested that the Board review the 1996 section 220(e) adopted regulations in light of the changes made by the CAA Reform Act in 2018. Since none of the Reform Act changes made in 2018 affected section 220 of the CAA, the Board has concluded that there is no need for any changes to the regulations adopted by the Board in 1996. While the CAA Reform Act changed the name of the Office of Compliance to the Office of Congressional Workplace Rights, the Reform Act also provides that “[a]ny reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date shall be considered to refer and apply to the Office of Congressional Workplace Rights.” Pub. L. 115-397, title III, § 308(d) (Dec. 21, 2018). For this reason, the Board does not believe that it even needs to propose a technical change to the name of the office in the adopted regulations.

Upon receiving your letter, we circulated it among the majority and minority staff of our oversight committees in both the House and the Senate and requested comments. We received comments suggesting that no changes need to be made to the 1996 adopted regulations. We also received comments suggesting that the Board should carefully review the 1996 adopted regulations to determine whether technical changes should be made because some office names have changed and some changes may have been made to the underlying statutes. Although CAA section 220(e)(2)(H) allows the Board to identify by regulation other Congressional offices that perform functions comparable to those listed in section 220(e)(2), it is not necessary for the Board to do so given its conclusion that the same regulations should apply to all offices. While this analysis would be necessary if the Board adopted special regulations for the Congressional offices identified in section 220(e)(2), no such special regulations are being proposed.

Regarding the underlying statute, section 220 incorporates specific sections of the Federal Service Labor Management Relations Statute (FSLMRS). Since 1996, there have been no significant changes to those sections of the statute that would affect the implementation of collective bargaining and unionization in the Congressional offices identified in CAA section 220(e)(2).

For these reasons, the Board does not see the need for any technical changes and unanimously requests that Congress approve the 1996 section 220(e) regulations previously adopted by the Board so that the Board can formally issue them. A copy of those regulations is attached. As provided in the CAA, the substantive rights under the FSLMRS made applicable to Congressional offices do not apply until the section 220(e) regulations are issued.

The Board will be publishing your letter and this response on our website and in the *Congressional Record* for public information.

Very respectfully yours,



Barbara Childs Wallace
Chair of the Board of Directors

1996 ADOPTED REGULATIONS

Sec.

2472 Specific regulations regarding certain offices of Congress

2472.1 Purpose and Scope

The regulations contained in this section implement the provisions of chapter 71 as applied by section 220 of the CAA to covered employees in the following employing offices:

(A) the personal office of any member of the House of Representatives or of any Senator;

(B) a standing select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips, and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) the Executive Office of the Secretary of the Senate, the Office of Senate Security, the Senate Disbursing Office, the Administrative Office of the Sergeant at Arms of the Senate, the Office of the Majority Whip of the House of Representatives, the Office of the Minority Whip of the House of Representatives, the Office of House Employment Counsel, the Immediate Office of the Clerk of the House of Representatives, the Immediate Office of the Chief Administrative Officer of the House of Representatives, the Office of Legislative Computer Systems of the House of Representatives, the Office of Finance of the House of Representatives and the Immediate Office of the Sergeant at Arms of the House of Representatives.

2472.2 Application of Chapter 71.

(a) The requirements and exemptions of chapter 71 of title 5, United States Code, as made applicable by section 220 of the CAA, shall apply to covered employees who are employed in the offices listed in section H2472.1 in the same manner and to the same extent as those requirements and exemptions are applied to other covered employees.

(b) The regulations of the Office, as set forth at section 2420-29 and 2470-71, shall apply to the employing offices listed in section 2472.1, covered employees who are employed in those offices, and representatives of those employees.