

Will we secure our borders and stop the lawless from coming across the Rio Grande?

Will we end the reckless spending that is indebting our kids and our grandkids to a future in which the dollar is worthless, and their country is destroyed because we didn't do our job here?

Will we pass tax reform that is good for families and small businesses, not the K Street lobbyists and big corporations?

These are the questions the American people want us to answer. They are tired of the excuses. They are tired of sternly worded letters. They are tired of hearings. They are tired of speeches. I will look in the mirror. I am giving another speech. They want to see us do it.

My call to my colleagues on both sides of the aisle, but particularly my colleagues on the Republican side of the aisle, we owe it, we owe it to the 400,000 tombstones sitting on the other side of the Potomac, we owe it to all those who fought and died and bled for that flag and for everything it represents. We owe it to our kids and our grandkids; we owe it to the world so that America can continue to be the beacon of hope. We owe it to restore American independence, restore liberty and freedom, restore a faith and a confidence in a government that is doing its actual constitutional job. We owe them that, not excuses.

We owe them to deliver, not to come back and say: Well, we tried. We owe them every ounce of our being when we are here in this town to work and get our job done; not to play politics, not to campaign, not to go to another political event, but to be here and do our job.

It is an honor to serve in Congress, but there is no point in being here if we are not actually going to deliver for the American people who sent us here to deliver for them. We will win the arguments if we will make them. We will lose the arguments if we are too afraid to fight.

I am tired of the celebrations of all the people who have fought, bled, and died for this country with an absence of a conviction politically, with all due respect to the many veterans in this Chamber who wore the uniform and fought and bled for this country, politically are you willing to fight and bleed and politically die for your country? Until you are, until you are willing to risk that, until you are willing to take that election certificate and nail it up on the wall and say: I am going to take this thing for a spin, I am going to actually do what I said I was going to do, and then let the American people decide. Until we are willing to do that, then we are going to be relegated to, in Reagan's phrasing, "the ash heap of history."

I happen to believe that we can take this country back, but I happen to believe that if we don't, if we don't take the steps right now to rescue her, then

we are going to lose her. We are going to be that generation that Reagan talked about when Reagan said we are only "one generation away from extinction." The question for us is, what will we do?

Mr. Speaker, I yield back the balance of my time.

ADJOURNMENT

Mr. ROY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, June 14, 2024, at 9 a.m.

NOTICE OF PROPOSED RULEMAKING FROM THE OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS ("OCWR")

U.S. CONGRESS, OFFICE OF
CONGRESSIONAL WORKPLACE RIGHTS,
Washington, DC, June 13, 2024.

Hon. MIKE JOHNSON,
Office of the Speaker of the House of Representatives, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: Section 207(d) of the Congressional Accountability Act (CAA), 2 U.S.C. 1316a(d), requires the Board of Directors of the Office of Congressional Workplace Rights (Board) to issue substantive regulations implementing section 207 of the CAA relating to the Fair Chance to Compete for Jobs Act of 2019 (FCA).

Section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), requires that the Board issue a general notice of proposed rulemaking by transmitting such notice to the Speaker of the House of Representatives and the President Pro Tempore of the Senate for publication in the *Congressional Record* on the first day of which both Houses are in session following such transmittal.

On behalf of the Board, I am hereby transmitting the attached Notice of Proposed Rulemaking to the Speaker of the House of Representatives. I request that this notice be published in the House section of the *Congressional Record* on the first day on which both Houses are in session following receipt of this transmittal. In compliance with section 304(b)(2) of the CAA, a comment period of 30 days after the publication of this Notice of Proposed Rulemaking is being provided before adoption of the rules.

Any inquiries regarding this notice should be addressed to Martin J. Crane, Executive Director of the Office of Congressional Workplace Rights, Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540-1999; 202-724-9250.

Sincerely,
BARBARA CHILDS WALLACE,
Chair of the Board of Directors,
Office of Congressional Workplace Rights.

NOTICE OF PROPOSED RULEMAKING FROM THE OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS ("OCWR")

Re NEW PROPOSED REGULATIONS IMPLEMENTING CERTAIN SUBSTANTIVE RIGHTS AND PROTECTIONS FOR JOB APPLICANTS, AS REQUIRED BY SECTION 207 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995, AS AMENDED ("CAA")

Background

The purpose of this Notice of Proposed Rulemaking ("Notice") is to propose substantive regulations that will implement the

Fair Chance to Compete for Jobs Act of 2019 ("FCA") in the legislative branch of the federal government. The FCA, as applied by section 207 of the CAA, codified at 2 U.S.C. §1316b, places limitations on employing office requests for criminal history record information from job applicants prior to a conditional offer of employment.

The CAA applies the rights and protections of numerous federal labor and employment statutes to covered employees and employing offices in the legislative branch. Section 1316b of the CAA prohibits employing offices from requesting that an applicant for employment disclose criminal history record information before the employing office makes a conditional offer of employment to that applicant. Section 1316b also provides that applicants for employment may rely on the CAA's existing claims procedures under subchapter IV and, through incorporation of 5 U.S.C. §9204, establishes minimum penalties and procedures to be followed before such penalties may be assessed against an employee who violates the FCA.

What is the authority under the CAA for these proposed substantive regulations?

The authority under the CAA for these proposed substantive regulations is found in two sections of the CAA. Section 1316b applies certain provisions of the FCA, title 5, chapter 92 of the United States Code. Section 1316b provides rights and protections to job applicants against criminal background checks prior to a conditional offer of employment. Subsection 1316b(d) requires the OCWR Board of Directors ("Board") to issue substantive regulations to implement these protections that are:

the same as substantive regulations promulgated by the Director of the Office of Personnel Management . . . 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.

The second CAA section that provides authority to the Board to promulgate these regulations is section 304, codified at 2 U.S.C. §1384. These proposed substantive regulations implement the statutory protections embodied in section 1316b.

Although Congress has required the Board to propose substantive regulations that are the same as the FCA regulations promulgated by the Office of Personnel Management ("OPM"), Congress has not required the Board to adopt OPM's procedural regulations for FCA violations. Section 1316b(c)(2) instead provides that:

An applicant for employment as a covered employee who alleges a violation of subsection (b)(1) may rely on the provisions of subchapter IV (other than section 1407 or 1408 of this title, or a provision of this subchapter that permits a person to obtain a civil action or judicial review)

Accordingly, the Board will address procedures through amendments to the OCWR Procedural Rules, under section 1383 of the FCA.

Do similar rights and protections currently apply via the CAA to legislative branch employing offices and covered employees?

No. Section 1316b creates a unique framework under the CAA providing for penalties against employees who violate the FCA.

What rights and protections are applied to eligible employees under section 1316b?

Congress enacted the FCA in December 2019, and the final regulations promulgated by OPM for the executive branch became effective in October 2023. The FCA's provisions

prohibit Federal employers, including employing offices in the legislative branch, from requesting that applicants for most jobs disclose criminal record history information prior to extending a conditional job offer to the applicant. The FCA enforces this prohibition through the assessment of penalties against employees responsible for violations.

The selected statutory provisions that Congress incorporated into the CAA and determined would apply to employing offices are subsections 9201(1), (4), and (5) and sections 9202, 9204, and 9206 of title 5. These sections incorporate definitions found in other code sections, in particular 5 U.S.C. § 7501, 5 U.S.C. § 9101, and 18 U.S.C. § 115(c).

Congress adopted the definitions of the terms “agency,” “criminal history record information,” and “suspension,” as found in subsections 9201(1), (4), and (5) respectively, “except as otherwise modified by” section 1316b. Section 1316b does not further modify the definitions of “agency” or “criminal history record information,” but section 1316b(c)(1) does further clarify that a “suspension” is to “be considered . . . a suspension with the level of compensation provided for a covered employee who is taking unpaid leave under section 1312” of the CAA.

Section 9202 establishes a general prohibition against inquiries regarding criminal history record information. An employee of an employing office may not request, in oral or written form, that an applicant for a position disclose criminal history record information prior to the employing office extending a conditional offer to the applicant.

Section 9202 also incorporates a number of exceptions. These exceptions allow criminal background history inquiries for law enforcement officers, for employees who would have access to classified information or who would serve in a sensitive national security position, for acceptance or retention in the armed services, or for other purposes as otherwise required by law.

Section 9204 provides for adverse actions against employees found, after notice and an opportunity for a hearing on the record, to have violated the prohibition regarding inquiries into applicants’ criminal history record information. The adverse actions include suspension of and fines imposed upon liable employees. Section 9204 additionally provides that fines and suspensions escalate based upon whether the employee has previously been found to have violated the FCA.

Section 9206 further clarifies that the FCA prohibits the request of sealed or expunged records or records relating to acts of juvenile delinquency. Section 9206 also clarifies that the FCA does not create a private right of action for any person.

Procedural Summary

How are substantive regulations proposed and approved under the CAA?

Pursuant to section 1384, the procedure for proposing and approving such substantive regulations provides that:

- (1) the Board of Directors propose substantive regulations and publish a general notice of proposed rulemaking in the *Congressional Record*;
- (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking;
- (3) after consideration of comments by the Board of Directors, the Board adopt regulations and transmit notice of such action (together with the regulations and a recommendation regarding the method for Congressional approval of the regulations) to the Speaker of the House and President pro tempore of the Senate for publication in the *Congressional Record*;
- (4) there be committee referral and action on the proposed regulations by resolution in

each House, concurrent resolution, or by joint resolution; and

(5) final publication of the approved regulations in the *Congressional Record*, with an effective date prescribed in the final publication.

For more detail, please reference the text of section 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

Are these proposed substantive regulations also recommended by OCWR’s Executive Director, the Deputy Executive Director for the Senate, and the Deputy Executive Director for the House of Representatives?

As required by section 1384(b)(1), the substance of these regulations is also recommended by the Executive Director, the Deputy Executive Director for the Senate, and the Deputy Executive Director for the House of Representatives.

Has the Board of Directors previously proposed substantive regulations implementing these rights and protections pursuant to section 1316b?

No.

What is the approach taken by these proposed substantive regulations?

The Board will follow the procedure as enumerated above and as required by statute to ensure that the regulations contemplate and reflect the practices and policies particular to the legislative branch.

What responsibilities would employing offices have in effectively implementing these regulations?

Employing offices have the responsibility of ensuring that their hiring announcements and hiring processes comply with the prohibition against requesting criminal history record information prior to making a conditional offer of employment, as required by these regulations and the FCA more generally.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?

No. The Board of Directors has identified no good cause for varying the text of these regulations. Therefore, if these regulations are approved as proposed, there will be one text applicable to all employing offices and covered employees.

Are these proposed substantive regulations available to persons with disabilities in an alternate format?

This Notice of Proposed Rulemaking is available on the OCWR’s website, www.ocwr.gov, which is compliant with Section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. § 794d. This Notice can also be made available in large print, Braille, or other alternative format. Requests for this Notice in an alternative format should be made to the Office of Congressional Workplace Rights, 202-724-9250 (voice); 202-426-1913 (fax); or ADAaccess@ocwr.gov (e-mail).

30 Day Comment Period Regarding the Proposed Regulations

How long do I have to submit comments regarding the proposed regulations?

Interested parties may submit comments regarding OCWR’s proposed regulations set forth in this Notice for a period of thirty (30) days following the date of the appearance of this Notice in the *Congressional Record*.

How do I submit comments?

Comments must be made in writing to the Executive Director, Office of Congressional Workplace Rights, via e-mail at rule-comments@ocwr.gov.

Am I allowed to view copies of submitted comments by others?

Yes. Copies of submitted comments will be available for review on the Office’s website at www.ocwr.gov.

Supplementary Information:

The Congressional Accountability Act of 1995, PL 104-1, was enacted into law on January 23, 1995, and amended on December 21, 2018, by the Congressional Accountability Act of 1995 Reform Act. The CAA, as amended, applies the rights and protections of numerous federal labor and employment statutes to covered employees and employing offices within the legislative branch of the federal government. Included among those rights are the protections provided to applicants regarding their criminal history record information in section 207 of the CAA. These protections are the subject of these regulations.

Section 301 of the CAA (2 U.S.C. § 1381) establishes the Office of Congressional Workplace Rights as an independent office within the legislative branch.

More Detailed Discussion of the Text of the Proposed Regulations

The Board proposes these substantive regulations with minimal changes from OPM’s regulations. The Board made numerous editorial changes necessitated by adaptation to the legislative branch, e.g., “employing office” for “agency,” or for consistency with the CAA, e.g., “claim” for “complaint.” The Board relied extensively on section 1316b(d), which requires that these regulations be the same as the substantive regulation promulgated by the Director of OPM unless it determines, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for implementation of the rights and protections under section 1316b. Where the Board determined that good cause existed to require a modification, it so modified the regulations.

Introduction to the Regulations under the Fair Chance to Compete for Jobs Act of 2019 General Provisions

The Purpose of FCA

The FCA, as applied by the CAA, protects job applicants in the legislative branch by prohibiting employing offices from inquiring into an applicant’s criminal history record information prior to a conditional offer of employment. The FCA, as applied by the CAA, provides that employees who inquire into an applicant’s criminal history record information in a manner that violates the FCA may be subject to discipline including suspensions from employment and fines.

The FCA, as applied by the CAA, provides that applicants are to rely upon the procedures set forth in subchapter IV of the CAA. As a result, OCWR’s procedures will differ from those contained in part 754 of the OPM regulations. The FCA, as applied by the CAA, does not provide for civil actions or judicial review of administrative determinations.

OPM Regulations

Section 1316b(d)(2) requires the Board to promulgate substantive regulations for the legislative branch. Congress required such regulations to be:

the same as substantive regulations issued by the Director of [OPM] . . . 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 [the FCA].

OPM’s regulations implementing the FCA became effective on October 1, 2023. OPM’s

regulations consist, in part, of minor amendments acknowledging application of the FCA to five parts of title 5 of the Code of Federal Regulations: parts 302 (“Employment in the Excepted Service”), 317 (“Employment in the Senior Executive Service”), 319 (“Employment in the Senior-Level and Scientific and Professional Positions”), 330 (“Recruitment, Selection, and Placement (General)”), and 731 (“Suitability”). OPM’s regulations also create two new parts of title 5 of the Code of Federal Regulations, parts 754 (“Complaint Procedures, Adverse Actions, and Appeals for Criminal History”) and 920 (“Timing of Criminal History Inquiries Prior to Conditional Offer”). Part 754 sets forth procedures for processing of complaints regarding violations of the FCA. Part 920 contains substantive regulations implementing the FCA.

Section-by-Section Analysis

Parts 302, 317, and 319

OPM made additions to parts 302, 317, and 319 of title 5 of the Code of Federal Regulations to incorporate the requirements of the FCA into existing regulations governing the excepted service, senior executive service, and “senior-level and scientific and professional positions,” respectively. Since there are no existing regulations in the legislative branch parallel to those OPM regulations, the Board found good cause not to propose parallel regulations.

Parts 330 and 731

Parts 330 and 731 relate to suitability of applicants for employment. The suitability provisions of title 5 do not apply in the legislative branch. The Board has therefore found good cause not to propose parallel regulations.

Part 754

The FCA, in section 9202(c)(2), requires that OPM adopt substantive regulations. In addition, section 9203(2) directs OPM to “establish and publish procedures under which an applicant for an appointment to a position in the civil service may submit a complaint, or any other information, regarding compliance with 5 U.S.C. §9202.” OPM, citing its general authority to promulgate regulations under 5 U.S.C. §1103(a), created a new 5 CFR part 754 to implement the complaint procedure requirements of the FCA. *See* Fair Chance to Compete for Jobs, 87 Fed. Reg. 24885–01, 24887 (April 27, 2022).

The Board has found good cause not to adopt part 754 for use in the legislative branch. Part 754 of OPM’s regulations is entirely procedural in nature. As such, it is outside the scope of Congress’s mandate that OCWR adopt substantive regulations that are the same as substantive regulations issued by the Director of OPM except upon a finding of good cause. Rather than requiring the Board to follow OPM’s procedural regulations and as Congress provided in section 1316b(c)(2), OCWR must process FCA claims using subchapter IV of the CAA (2 U.S.C. §1401 et seq.). OCWR has established interim procedures and will amend its Procedural Rules to implement procedures for FCA claims in the legislative branch pursuant to section 1383 of the CAA.

Part 920

OPM adopted 5 CFR, part 920 to set forth general rules regarding the FCA. The Board found good cause to modify part 920 to adapt it from the executive branch to the legislative branch.

Subpart A

Subpart A of part 920 of OPM’s regulations contains general provisions that are applicable to the timing of criminal history inquiries. Section 920.101 contains definitions necessary for the administration of this part.

For section 920.101, the Board has found good cause to modify the definitions. The

Board proposes omitting the definition of “agency” and replacing it with a definition of “employing office” based on sections 1301(a)(9) and 1301(b) of the CAA.

The Board proposes omitting the definition of “appointing authority.” Section 9201(2) of the FCA defines “appointing authority” as “an employee in the executive branch of the Government of the United States that has authority to make appointments to positions in the civil service.” That definition is inapplicable to the legislative branch. Moreover, since liability under the FCA attaches to individual employees, regardless of whether they have hiring authority, the term “appointing authority” is not essential to the application of the FCA in the legislative branch.

The Board proposes modifying the definition of “conditional offer” to include a CAA-specific definition of the term. Section 1316b(b)(1)(B) defines “conditional offer” as “an offer of employment as a covered employee that is conditioned upon the results of a criminal history inquiry.”

The Board proposes replacing the definition of “employee” with a definition of “covered employee” based upon sections 1301(a)(3) and 1301(b) of the CAA.

The Board proposes omitting the definitions of “political appointment,” as well as section 920.201(b)(2), which exempts applicants for political appointments from FCA coverage. None of the definitions of “political appointment” apply to covered employees in the legislative branch. The Board proposes this omission as opposed to the creation of an alternative definition or definitions of that term. Neither the FCA nor the CAA provides a basis for the Board to create an alternative definition of “political appointment” for the legislative branch or to exempt from the FCA’s coverage employees falling within the scope of such a definition.

Subpart B

Subpart B of OPM’s regulations addresses when inquiries into an applicant’s criminal history record information may be made. Section 920.201(a) states that an agency cannot request an applicant’s criminal history record information orally or in written form prior to giving a conditional offer of employment. This includes the following points in the recruitment and hiring process: (1) initial application, through a job opportunity announcement on USAJOBS, or through any recruitment/public notification such as on the agency’s website/social media, etc.; (2) after an agency receives an initial application through its back-end system, through shared service providers/recruiters/contractors, or orally or via email and other forms of electronic notification; and (3) prior to, during, or after a job interview. This prohibition applies to agency personnel, shared service providers, contractors involved in the agency’s recruitment and hiring process, automated systems (specific to the agency or governmentwide), etc. Other than minor amendments to employ terminology used in the legislative branch, the Board proposes no changes to section 920.201(a).

Section 920.201(b) of OPM’s regulations tracks the requirements of 5 U.S.C. §9202(b) and (c)(1), allowing inquiries into a job applicant’s criminal history, prior to making a conditional job offer to that applicant, if doing so is otherwise required by law, if the position requires a determination of eligibility for access to classified information or employment in a sensitive position (designated under the Position Designation System issued by OPM and the Office of Director of National Intelligence), or eligibility for acceptance or retention in the armed forces (as described in 5 U.S.C. §9101(b)(1)(A)(i), (ii), or (iii)) such as for dual-status military tech-

nicians, or if it is a Federal law enforcement officer position (as defined in section 115(c) of title 18).

Paragraph (b) also makes an exception for applicants for political appointments. Pre-employment criminal history screening may be required for these positions prior to a conditional offer of employment, because of the utmost trust and discretion required in these positions. Paragraph (b) also describes other circumstances for which OPM may grant exceptions in response to a request from a hiring agency.

The Board proposes modifying subparagraphs (b)(1)(iii), (b)(1)(iv), and (b)(2), which relate to exceptions from the FCA, by omitting them. Subparagraph (1)(iii) relates to positions that have been designated under the Position Designation System as sensitive. The Board is aware of no positions in covered employing offices that would be subject to such designation. Similarly, the Board is unaware of any dual-status military technicians in the legislative branch, thereby obviating the need for subparagraph (1)(iv). The Board is also proposing to omit subparagraph (b)(2), since, as was noted above, the Board lacks the authority to create a legislative branch-specific definition of “political appointment.”

Paragraph (c) adds the requirement that agencies notify applicants of the prohibition in job opportunity announcements and on agency websites/portals for positions that do not require a posting on USAJOBS, such as excepted service positions, in addition to information about agency complaint processes as required by part 754 of title 5 of the Code of Federal Regulations. Other than minor amendments to employ terminology used in the legislative branch, the Board proposes no changes to section 920.201(c).

Section 920.202 of OPM’s regulations defines what constitutes a violation of the FCA.

Paragraph (a) defines a violation as any oral or written request for criminal history information prior to a conditional job offer. Paragraph (b) explains that a violation occurs when a prohibited inquiry is made by agency personnel, including when they act through shared service providers, contractors involved in the agency’s recruitment/hiring process, or automated systems (specific to the agency or governmentwide).

Section 920.202 of OPM’s regulations also outlines several situations in which a violation could occur. An agency cannot request criminal history information upon the initial application, through a job opportunity announcement on USAJOBS, or through any recruitment/public notification such as on the agency’s website/social media. An agency also cannot request this information after an agency receives an initial application through its back-end system, through shared service providers/recruiters/contractors, or orally or via email and other forms of electronic notification prior to giving the conditional offer. Additionally, the agency cannot request the information verbally prior to, during, or after a job interview prior to giving a conditional offer. Other than minor amendments to employ terminology used in the legislative branch, the Board proposes no changes to sections 920.202(a) and (b).

Paragraph (c) provides that when a prohibited request, announcement, or communication is publicly posted or simultaneously distributed to multiple applicants, it constitutes a single violation. This resolves an ambiguity in the language of 5 U.S.C. §9202(a) and prevents the absurd and unintended outcome of thousands of violations and complaints arising from a single job opportunity announcement on USAJOBS. Other than minor amendments to employ terminology used in the legislative branch,

the Board proposes no changes to section 920.202(c).

Paragraph (d) of section 920.202 of OPM's regulations explains that any violation as defined in paragraph (a) is subject to the complaint and penalty procedures in part 754 of title 5 of the Code of Federal Regulations. The Board proposes modifying paragraph (d) to replace reference to part 754 with reference to subchapter IV of the CAA and OCWR's Procedural Rules.

PART 920—TIMING OF CRIMINAL HISTORY INQUIRIES

Subpart A—General Provisions

Sec.

920.101 Definitions.

920.102 Positions covered by Fair Chance Act regulations.

Subpart B—Timing of Inquiries Regarding Criminal History

920.201 Limitations on criminal history inquiries.

920.202 Violations.

§ 920.101 Definitions.

For the purpose of this part:

Employing office means:

(1) The personal office of a Member of the House of Representatives or of a Senator;

(2) A committee of the House of Representatives or the Senate or a joint committee;

(3) Any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) The Office of Congressional Accessibility Services, the United States Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Congressional Workplace Rights, the Office of Technology Assessment, the Library of Congress, the Stennis Center for Public Service, the United States Commission on International Religious Freedom, the U.S.-China Economic and Security Review Commission, Congressional-Executive Commission on China, and the Commission on Security and Cooperation in Europe.

Applicant means a person who has applied to an employing office under its procedures for accepting applications consistent with governmentwide regulations, as applicable.

Conditional offer means an offer of employment as a covered employee that is conditioned upon the results of a criminal history inquiry.

Covered employee means any employee of—

- (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the United States Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Congressional Workplace Rights; (9) the Office of Technology Assessment; (10) the Library of Congress; (11) the Stennis Center for Public Service; (12) the United States Commission on International Religious Freedom; (13) the U.S.-China Economic and Security Review Commission; (14) the Congressional-Executive Commission on China; or (15) the Commission on Security and Cooperation in Europe.

Criminal history record information—(1) Has the meaning given the term in section 9101(a) of title 5, United States Code; and

(2) Includes any information described in the first sentence of section 9101(a)(2) of title 5, United States Code, that has been sealed or expunged pursuant to law; and

(3) Includes information collected by a criminal justice agency, relating to an act or alleged act of juvenile delinquency, that is analogous to criminal history record information

(including such information that has been sealed or expunged pursuant to law).

§ 920.102 Positions covered by Fair Chance Act regulations.

(a) *Positions covered.* Except as provided in paragraph (b), this part applies to all positions in any employing office.

(b) *Exempt positions.* For purposes of this part an exempt position is any position for which an employing office is required by statutory authority to make inquiries into an applicant's criminal history prior to extending an offer of employment to the applicant.

Subpart B—Timing of Inquiries Regarding Criminal History

§ 920.201. Limitations on criminal history inquiries.

(a) *Applicability.* An employee of an employing office may not request, in oral or written form (including through the Declaration for Federal Employment (Office of Personnel Management Optional Form 306) or any similar successor form, the USAJOBS internet website, or any other electronic means) that an applicant for employment with an employing office disclose criminal history record information regarding the applicant before the employing office extends a conditional offer to the applicant. This includes the following points in the recruitment and hiring process:

(1) Initial application, through a job opportunity announcement on USAJOBS, or through any recruitment/public notification such as on the employing office's website/social media, etc.;

(2) After an employing office receives an initial application through its back-end system, through shared service providers/recruiters/contractors, or orally or via email and other forms of electronic notification; and

(3) Prior to, during, or after a job interview. This prohibition applies to employing office personnel, including when they act through shared service providers, contractors (acting on behalf of the employing office) involved in the employing office's recruitment and hiring process, or automated systems (specific to the employing office or governmentwide).

(b) *Exceptions for certain positions.* (1) The prohibition under paragraph (a) of this section shall not apply with respect to an applicant for an appointment to a position:

(i) Which is exempt in accordance with § 920.102(b);

(ii) That requires a determination of eligibility for access to classified information;

(iii) Is a Federal law enforcement officer position meeting the definition in section 115(c) of title 18, U.S. Code.

(c) *Notification to applicants.* Each employing office must publicize to applicants the prohibition described in paragraph (a) of this section in job opportunity announcements and on employing office websites/portals for positions that do not require a posting on USAJOBS.

§ 920.202. Violations.

(a) An employing office employee may not request, orally or in writing, information about an applicant's criminal history prior to making a conditional offer of employment to that applicant unless the position is exempted or excepted in accordance with § 920.201(b).

(b) A violation (or prohibited action) as defined in paragraph (a) of this section occurs when employing office personnel, shared service providers, or contractors (acting on behalf of the employing office) involved in the employing office's recruitment and hiring process, either personally or through automated systems (specific to the employ-

ing office or governmentwide), make oral or written requests prior to giving a conditional offer of employment—

(1) In a job opportunity announcement on USAJOBS or in any recruitment/public notification such as on the employing office's website or social media;

(2) In communications sent after an employing office receives an initial application, through an employing office's talent acquisition system, shared service providers/recruiters/contractors, orally or in writing (including via email and other forms of electronic notification); or

(3) Prior to, during, or after a job interview or other applicant assessment.

(c) When a prohibited request, announcement, or communication is publicly posted or simultaneously distributed to multiple applicants, it constitutes a single violation.

(d) Any violation as defined in paragraph (a) of this section is subject to the claim and penalty procedures under subchapter IV of title 2 (other than section 1407 or 1408 of title 2, or a provision of that subchapter that permits a person to obtain a civil action or judicial review) and the OCWR Procedural Rules, consistent with these regulations.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

EC-4531. A letter from the Assistant General Counsel, Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting the Department's final priorities, requirements, and definitions — Final Priorities, Requirements, and Definitions-National Professional Development Program [Docket ID: ED-2023-OELA-0132] received May 29, 2024, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Education and the Workforce.

EC-4532. A letter from the Director, Rule-making Operations, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's Major final rule — Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027 and Beyond and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030 and Beyond [NHTSA-2023-0022] (RIN: 2127-AM55) received June 10, 2024, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Energy and Commerce.

EC-4533. A letter from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting Department Notification Number: DDTC 24-040, pursuant to Section 3(d)(3) of the Arms Export Control Act; to the Committee on Foreign Affairs.

EC-4534. A letter from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting Department Notification Number: DDTC 24-021, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

EC-4535. A letter from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting Department Notification Number: DDTC 24-013, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

EC-4536. A letter from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting Department Notification Number: DDTC 24-037, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

EC-4537. A letter from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting Department