given third-party actors an enhanced opportunity to reach consumers that they may have not previously been able to reach;

Whereas the deceptive tactics of counterfeiters and their counterfeit products pose actual and potential harm to the health and safety of United States citizens, especially the most vulnerable consumers in society, such as senior citizens and children;

Whereas, according to the 2024 Special 301 Report issued by the Office the United States Trade Representative, counterfeit items often do not comply with regulated safety standards, and as a result, vast amounts of unsafe products are constantly circulating the market and endangering the public;

Whereas goods originating in China and Hong Kong account for more than 80 percent of all global customs seizures of dangerous counterfeit goods, including foodstuffs, pharmaceuticals, cosmetics, and other goods;

Whereas counterfeit medical products pose a particular threat to the safety and health of consumers in the United States because the counterfeit product does not provide the same level of protection as an authentic article;

Whereas, in September 2021, the Drug Enforcement Administration issued its first Public Safety Alert in 6 years to warn the public about the alarming increase in the availability and lethality of fake prescription pills in the United States, pills that often contain deadly doses of fentanyl, and in 2023, the Drug Enforcement Administration seized a staggering 80,000,000 fentanyl-laced prescription pills;

Whereas counterfeit products threaten the United States economy and job creation, and according to United States Customs and Border Protection, counterfeiting and piracy cost businesses in the United States more than $275,000,000,000 per year and have led to the loss of more than 750,000 jobs;

Whereas, in 2023, United States Customs and Border Protection seized more than 23,000,000 counterfeit goods, with an estimated manufacturer's suggested retail price of over $2,750,000,000 if the goods were genuine, which equates to about $7,534,246 in counterfeit goods seizures every day;

Whereas the manufacturing, trade, and consumption of counterfeit products are on the rise;

Whereas, according to the United States Patent and Trademark Office, as of 2020, at least 20 percent of counterfeit and pirated goods sold abroad displace sales in the United States, and of the $143,000,000,000 sold of such goods, the United States economy suffers a loss of around $29,000,000,000 per year;

Whereas businesses of all sizes collectively spend millions of dollars to protect and enforce their own brand and products by removing counterfeit products from both online and physical marketplaces;

Whereas businesses must devote resources to combating counterfeit products instead of using those resources to grow their business by hiring new employees and developing new products;

Whereas one of the most effective ways to protect consumers from the dangers of counterfeit products is through educational campaigns and awareness programs; and

Whereas organizations such as the Congressional Trademark Caucus, Federal enforcement agencies, the National Intellectual Property Rights Coordination Center, and State enforcement agencies are actively working to raise awareness of the value of trademarks and the impact and harms caused by counterfeit products on both the national and State economies: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of July 2024 as ''National Anti-Counterfeiting and Consumer Education and Awareness Month'';

(2) supports the goals and ideals of National Anti-Counterfeiting and Consumer Education and Awareness Month to educate the public and raise public awareness about the actual and potential dangers counterfeit products pose to consumer health and safety;

(3) affirms the continuing importance and need for comprehensive Federal, State, and private sector-supported education and awareness efforts designed to equip the consumers of the United States with the information and tools needed to safeguard against illegal counterfeit products in traditional commerce, internet commerce, and other electronic commerce platforms; and

(4) recognizes and reaffirms the commitment of the United States to combating counterfeiting by promoting awareness about the actual and potential harm of counterfeiting to consumers and brand owners and by promoting new education programs and campaigns designed to reduce the supply of, and demand for, counterfeit products.

AUTHORITY FOR COMMITTEES TO MEET

Mr. SCHUMER. Madam President, I have six requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet in closed session during the session of the Senate on Thursday, June 13, 2024, at 8:30 a.m.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Thursday, June 13, 2024, at 10 a.m., to conduct a hearing.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Thursday, June 13, 2024, at 9:30 a.m., to conduct a hearing.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet in executive session during the session of the Senate on Thursday, June 13, 2024, at 9:45 a.m.

COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Thursday, June 13, 2024, at 10 a.m., to conduct a hearing on nominations.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Thursday, June 13, 2024, at 10 a.m., to conduct an executive business meeting.

PRIVILEGES OF THE FLOOR

Mr. CASSIDY. Madam President, I ask unanimous consent that Harrison Dougherty and Zahra Naeini—interns in my office—be granted floor privileges until June 14, 2024.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF PROPOSED RULEMAKING FROM THE OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS

Mr. SCHUMER. Madam President, I ask unanimous consent that the notice of proposed rulemaking from the Office Of Congressional Workplace Rights be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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. PATTY MURRAY,
President Pro Tempore, U.S. Senate,
U.S. Capitol, Washington, DC.

DEAR MADAM PRESIDENT: 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 President Pro Tempore of the Senate. I request that this notice be published in the Senate 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 technicians, 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

Subpart B—Timing of Inquiries Regarding Criminal History

§ 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 employing 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.

UNANIMOUS CONSENT AGREEMENT—S. 870

Mr. SCHUMER. Madam President, I ask unanimous consent that notwithstanding rule XXII, at a time to be determined by the majority leader in consultation with the Republican leader, it be in order for the Chair to lay before the Senate the House message to accompany S. 870, and the leader or his designee be recognized to make a motion to concur in the House amendments; further, that there be up to 2 hours of debate equally divided, and upon the use or yielding back of that time, the Senate vote on the motion to concur with the House amendments without further intervening action or debate; finally, if the motion is agreed to, the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRE GRANTS AND SAFETY ACT

Mr. SCHUMER. Madam President, I have some very good news. Today, we reached an agreement to move forward on bipartisan legislation to support our firefighters. Our firefighters—paid and volunteer—are brave. They risk their lives for us. And they run toward danger, not away from it. In that sense, they are like our domestic soldiers.

Passing this bipartisan legislation would be the best way to support our firefighters and ensure they have the equipment and personnel they need to do their jobs.

I have long supported this legislation. I was involved in putting it together originally, way back when, and I look forward to working with my colleagues to bring this legislation to the floor for a vote as soon as possible. We need to help our firefighters.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

BIDEN ADMINISTRATION

Mr. GRASSLEY. Madam President, I come to the floor to discuss the differences between Democrat foreign policy and Republican foreign policy.

There seems to be a pattern where if a Republican President is elected, partisan pundits warn that it will be very bad for our international relations. Now, by contrast, when a Democrat President takes over from a Republican, the same partisan pundits often promise smooth overall international relations. These same left-leaning pundits then breathe a sigh of relief that our alliances will be shored up and everything will be miraculously harmonious, but if you look at the record, it often doesn't work out that way.

President Carter presided over a string of foreign policy disasters, leaving the United States looking weak and humiliated.

Ronald Reagan was portrayed as a dangerous cowboy who might start a nuclear war. On the contrary, Reagan's calculated efforts to push back against Soviet communism resulted in fewer nuclear arms and freed millions of people from repressive regimes.

In 2009, the new Vice President, Joe Biden, went to Munich to deliver the Obama administration's first major foreign policy address. That address was hailed by some in the media as announcing a more cooperative approach with European countries.

Biden's promise to defer more to other countries rather than setting the agenda was a foreshadowing of President Obama's infamous ''leading from behind'' policy, which turned out to be a disastrous policy.

Biden also said:

> It's time to press the reset button and to revisit the many areas where we can and should be working together with Russia.

Then look at what Russia did after that comment. This comment was 6 months after Russia had invaded and occupied territory of the Republic of Georgia, which, if you remember, had sent significant forces to fight alongside the American military in Afghanistan and Iraq.

Now, can you believe that in a unilateral effort to show good—meaning good will—towards Russia, the Obama-Biden reset included abruptly scrapping planned missile defense cooperation with the Czech and Polish allies of America.

To add insult to injury, the Obama administration made the announcement about abandoning our missile defense cooperation with the Czech Republic and Poland on the anniversary of the Soviet invasion of Poland—not an ideal time to make that announcement—and, of course, that announcement turned out to be a grave error. Not only did it offend some of our most pro-American allies, but it also sent the very exact wrong message to dictator Vladimir Putin.

Putin's Russia, like the old Soviet Union before, only understands strength. They respect even enemies that have strength. They are not going to take advantage of somebody that shows strength. Unilateral concessions are perceived by Putin as weakness and actually encourage further aggression, just like we saw against Ukraine in 2014.

The Obama response to the 2014 invasion of Ukraine was, again, dangerously weak. Sending such a signal to Putin is the wrong thing to do. This signal amounted to wagging its proverbial finger at Russia while denying Ukraine the defensive weapons needed to repel the Russian invasion.

So what did Obama do? His policy was to send helmets and blankets and then push for negotiations—another show of weakness—doing all this while leaving Ukraine helpless, with a gun to its head.

Obviously, negotiations under such circumstances effectively meant Russia keeping what it gained by force and freezing the conflict until Russia could take more land.

Is there any wonder, then, that Putin felt he could get away with taking the rest of Ukraine in February of 2022? Do you know what he was getting away with at the same time? Killing women, children, grandmothers, grandads, really kidnapping maybe 20,000 children, taking them to Russia.

President Obama's pursuit of a nuclear deal with Iran at all costs alienated our closest ally in the Middle East. That close ally we all know is Israel. But the Iran agreement also alarmed Saudi Arabia, which has been a longtime strategic partner of the United States.

Then you will remember the drawing of the infamous redline in Syria at the time Syria was going to gas people to death and this infamous redline, before immediately abandoning it, as Obama did, sending a very dangerous signal about America's weakness to the axis of Iran, Russia, and China, now very much cooperating as an axis like Germany, Italy, and Japan did before World War II and during World War II.

Now, all of this about the redline no doubt played into Vladimir Putin's calculations when he chose to invade Ukraine for the first time a few months later.

So far, I have just talked about Democrat administrations. I want to talk about Republican.

When Trump was elected, he scrapped the nuclear deal. This repaired the trust with our gulf partners, and not only repairing trust but leading and setting the stage for the Abraham Accords, which accords were cooperation that nobody thought could ever happen between Israel and Arab Nations because previous administrations said: We can't expect any sort of close working relationships between Israel and Arab countries if we don't have a Palestinian State. But President Trump didn't wait for a Palestinian State. Yet he had success bringing Israel into economic relationships with a lot of Gulf partners.