



Office of Compliance

Office of the Executive Director

December 15, 2017

Dear Chairman Harper:

As our oversight committee, we are responding to your letter of November 30, 2017 requesting certain statistical information regarding settlements against House Member, Committee, and Leadership Offices and your subsequent request to distinguish between those offices that are Member led and those that are not. We previously provided you with information regarding settlements between FY2013 and FY2017. Enclosed you will find additional information regarding settlements between FY2008 and FY2012.

As we have discussed with your staff, our ability to respond to your request is constrained by the confidentiality provisions of the Congressional Accountability Act (“CAA”) and the nature of the process established by that statute. Specifically:

- The CAA provides that counseling and mediation “shall be strictly confidential.” 2 U.S.C. § 1416(a)-(b).
- Covered employees are not required to create a charging document at the end of counseling, so there is no documentation of the specific allegations an employee raised in mediation after completing counseling.
- We have previously treated sexual harassment claims as a form of discrimination on the basis of sex, and traditionally the OOC has not separated allegations of sexual harassment from those involving sex-based disparate treatment or pregnancy discrimination. In fact, for many years, the office simply classified all claims alleging discrimination as civil rights cases without any further differentiation. Thus, we have claims classified in the category of “civil rights” that may or may not contain an allegation of sex-based discrimination, and we have claims classified as sex discrimination that might – but do not necessarily – involve allegations of sexual harassment. We have made our best effort to identify claims that may be considered sexual harassment.
- Because the CAA does not grant the OOC investigatory authority over claims of sexual harassment or other forms of discrimination, we have little information regarding the details of allegations, or what evidence might support or refute such allegations.
- The settlement agreements contain non-disclosure provisions negotiated by the parties, and the OOC does not know the substance of the discussions that led to settlement, what the parties knew at the time of the settlement, or the reasons why the parties settled. Typically, the settlement documents release all potential claims under the CAA regardless of whether the claim was raised or whether there was any evidence to support the claim. As far as we can tell, there has never been an admission of liability in any of the settlement documents.

For all of the reasons above, the OOC cannot be certain why cases settled. We also do not necessarily possess information regarding claims that have been settled using funds that did not come out of the Treasury account. Some of our suggestions regarding changes to the CAA would allow us to gather more accurate information. For example, if a charging document was created at the conclusion of counseling and investigatory authority was granted to the OOC, we would have much more reliable information about the settlement of claims that could be used to better provide the type of information you have requested.

Nevertheless, we have endeavored to respond to your inquiry to the fullest extent possible under the current statutory scheme, and we hope that the enclosed information proves helpful. This information supplements our December 1, 2017 response to question b).

Please feel free to contact me if you have any questions or wish to discuss these issues further.

Very truly yours,



Susan Tsui Grundmann
Executive Director

Enclosure

The Honorable Gregg Harper
United States House of Representatives
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515

Claims against Member-led Offices from 2008-2012:

1. sex discrimination, retaliation, & FLSA violation	\$15,225.00
2. sex and disability discrimination & retaliation	\$8,160.00
3. retaliation	\$10,000.00
4. race and disability discrimination & retaliation	\$17,500.00
5. retaliation	\$15,333.33
6. sexual harassment and harassment because of retaliation	\$85,000.00
7. sex discrimination (including sexual harassment) & retaliation	\$10,000.00
8. sexual harassment because of retaliation & sex discrimination	\$20,000.00
9. disability discrimination & retaliation	\$50,000.00
10. sex discrimination, retaliation & FLSA violation	\$12,100.00
11. race discrimination	\$5,000.00
12. age discrimination	\$65,000.00
13. age discrimination	\$5,000.00
14. race, age, national origin, sex , and disability discrimination & retaliation	\$8,000.00
15. race and sex discrimination, retaliation & FMLA violation	<u>\$15,907.52</u>
Total of Settlement Amounts for Member-led offices:	\$342,225.85

Claims Against Non-Member-led Offices from 2008-2012:

1. race and age discrimination & retaliation	<u>\$12,240.00</u>
Total of Settlement Amounts for Non-Member-led Offices:	\$12,240.00
Total of Settlement Amounts for All House Offices (2008-2012):	\$354,465.85