



**COURT SERVICES AND OFFENDER SUPERVISION AGENCY
AND
PRETRIAL SERVICES AGENCY FOR THE DISTRICT OF COLUMBIA
OFFICES OF THE DIRECTORS**



GUIDANCE MEMORANDUM

TO: All Employees and Applicants

FROM: Richard Tischner, Director, CSOSA
Leslie Cooper, Director, PSA

DATE: February 7, 2025

SUBJECT: GM 1012 Equal Employment Opportunity

Rel S.

Leslie Cooper

Digitally signed by LESLIE COOPER
DN: cn=US, cn=U.S. Government, ou=Pretrial
Services Agency, cn=LESLIE COOPER,
0.9.2342.1.3.200300.100.1.1+95951002719513
Date: 2025.02.06 09:46:07 -0500

This memorandum serves as the interim guidance on the Agency's equal employment opportunity (EEO) program, effective February 7, 2025.

Policy Statement

It is the policy of the Court Services and Offender Supervision Agency (CSOSA), and the Pretrial Services Agency for the District of Columbia (PSA) (collectively, the Agency) to comply with the Federal law that states an employer cannot discriminate against any employee based on race, color, religion, national origin, sex, age, disability, genetic information, or retaliation for engaging in protected EEO activity.

The Agency:

- Is committed to ensuring that our workplace is free from all forms of discrimination and harassment; and
- Will provide reasonable accommodations to qualified individuals with disabilities and qualified employees and applicants' known limitations related to pregnancy, childbirth, or related medical conditions, and will accommodate religious beliefs and practices as required by all applicable laws.

Coverage

This guidance memo applies to all employees and applicants of CSOSA, and PSA.

Authorities, Supersedure, References, And Attachment

- Authorities:
 - Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) (Pub. L. 110-233, 122 Stat. 881)
 - Title VII of the Civil Rights Act of 1964, as amended. (42 U.S.C. §§ 2000 et seq.)
 - Pregnancy Discrimination Act of 1978

- The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d) et. seq.)
- Lilly Ledbetter Fair Pay Act of 2009
- The Age Discrimination in Employment Act of 1967 (ADEA), as amended (29 U.S.C. §§ 621 et seq.)
- Title I and V of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12101 et seq.), as amended by the ADA Amendments Act (ADAAA) of 2008, Pub. L. 110-325
- Rehabilitation Act of 1973, as amended
- EEOC Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, as amended, Final Rule, 76 Fed. Reg. 16978 (3/25/11)
- Section 501 and 505 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 791 et seq.)
- Sections 102 and 103 of the Civil Rights Act of 1991 (42 U.S.C. 1981, and 42 U.S.C. 1988)
- Code of Federal Regulations (C.F.R.), Title 29, Part 1614 Equal Employment Opportunity Commission Management Directives 110 and 715
- Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act of 2002), (Pub. L. 107-174)
- Pregnant Workers Fairness Act (PWFA) (42 U.S. Code §§ 2000gg-1 et seq.)
- Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity
- Supersedes:
 - PS 1012 Equal Employment Opportunity and Diversity, *effective date of 06/17/2014*.
- References
 - [PS 0820 Reasonable Accommodation](#)
 - [OI-OHR-0820.1 Reasonable Accommodation](#)
 - [OI-OHR-0820.2 Personal Assistance Services](#)
- Attachment
 - Appendix A: Equal Employment Opportunity Complaint process



Court Services and Offender Supervision Agency
Pretrial Services Agency
for the District of Columbia
Office of Equal Employment Opportunity

Appendix A: Equal Employment Opportunity Complaint Process

Introduction

The Federal Sector Equal Employment Opportunity (EEO) Complaint Process provides individuals who believe they have been discriminated against based on race, color, religion, national origin, sex, age (40 or older), disability, genetic information, and reprisal/retaliation for engaging in prior protected EEO activity and an avenue of review and appeal through which to seek appropriate relief.

The outlined process guides employees and applicants of the Court Services and Offender Supervision Agency (CSOSA) and the Pretrial Services Agency for the District of Columbia (PSA) (collectively, the Agency) on how to initiate complaints alleging EEO-based discrimination and information on how these complaints are processed.

NOTE: All time frames noted in this process are in calendar days, unless otherwise noted.

Contents

Topic	See Page
Overview of the EEO Complaint Process	2
Informal Complaint (Pre-Complaint Process)	5
Formal Complaint	8
Final Agency Action	12
Appeals to the EEOC	14
Filing a Civil Action, Provisions Applicable to ADEA, EPA, and Grievance Procedure	15
Mixed Cases: Merit System Protection Board Appeal Process	17

Overview of the EEO Complaint Process

Use Informal Before Formal

Consistent with the Equal Employment Opportunity Commission (EEOC) regulations, individuals **must** participate in an informal complaint process before filing a formal complaint.

Rationale

The informal complaint process, also called the pre-complaint process, provides an opportunity to resolve issues before filing a formal complaint.

Who Can File?

The following individuals are eligible to file an EEO complaint:

- Employees (full-time, part-time, seasonal, Pathways, or temporary), interns, and detailees;
 - Former employees; and
 - Job applicants.
-

Terms Used for Filers

Different terms refer to individuals participating in the EEO complaint process.

During the...	An individual is referred to as the ...
informal complaint process	aggrieved.
formal complaint process	complainant.
appeal process	appellant.

What is a Claim?

A claim consists of an issue and a base.

Example: "I was not selected (issue) for the position because of my color (basis)."

Continued on next page

Overview of the EEO Complaint Process, Continued

What is a Basis? A **basis** is the "reason" alleged for discrimination: Why do you believe you were discriminated against? A discrimination complaint **must** assert a basis or reason.

Example: "I was not selected for the position because of my color."

Basis = Color

Federal EEO laws prohibit discrimination based **only** on the following:

- Race;
- Color;
- Religion;
- National origin;
- Sex;
- Age (40 or older);
- Disability;
- Genetic information; and
- Reprisal/Retaliation against an individual for engaging in a protected EEO activity, such as reporting or opposing discrimination, participating in the EEO process, and requesting a reasonable accommodation.

What is an Issue?

An **issue** is the

- Personnel action; or
- Action concerning a term, condition, or privilege of employment alleged to be discriminatory.

What action has the agency taken or is taking against you that you believe was/is discriminatory? A discrimination complaint **must** describe the alleged discriminatory personnel action or alleged discriminatory action taken by the agency.

Continued on next page

Overview of the EEO Complaint Process, Continued

What is an Issue?, Continued

Example: “I was not selected for the position because of my color.”

Issue = Non-selection

Specific issues of this type include, but are not limited to, the following:

- Non-selection;
 - Removal;
 - Suspensions;
 - Demotions;
 - Poor performance ratings;
 - Failure to accommodate (disability, religion, pregnancy, childbirth, or related medical condition);
 - Denial of awards, training, assignments, details, etc.;
 - Sexual harassment; and
 - Hostile work environment/harassment.
-

Right to Anonymity

The aggrieved has the right to remain anonymous during the informal complaint process but not during the formal or alternative dispute resolution (ADR) process.

Right to Representation

The aggrieved has the right to be accompanied, represented, and advised by a representative of their choice throughout the EEO complaint process, including the informal complaint process.

While the aggrieved may generally select anyone to be their representative, management may disallow the choice of a representative if:

- The representative is a CSOSA or PSA employee who **cannot** be spared from their official duties; or
- The representation would present a conflict of interest (e.g., an EEO counselor **cannot** serve as a representative).

The aggrieved **must** provide the Office of Equal Employment Opportunity (OEEO) with the representative’s name and contact information by submitting a [Designation of EEO Representative Form](#) as soon as a representative is obtained.

Informal Complaint (Pre-Complaint Process)

Time Frame for Initiating an Informal Complaint

Contact the OEEEO to file an informal complaint within **45 calendar days** of the following:

- Alleged discriminatory action; or
- Effective date of the alleged discriminatory personnel action.

Exceptions:

This time limit is extended where the aggrieved can show:

- They did **not** and reasonably should **not** have known that the discriminatory action occurred; or
 - Circumstances beyond their control prevented them from contacting the OEEEO within the time limits. [29 CFR Part 1614.105\(a\)\(2\)](#).
-

How to File an Informal Complaint

An informal complaint may be filed using one of the following options:

- Email the Office of Equal Employment Opportunity (OEEEO) at eeocomplaints@csosa.gov;
 - Call the OEEEO at (202) 442-1680;
 - Fill out and submit an [EEO Intake Form](#) online; or
 - Walk into the OEEEO, located at:
800 North Capitol Street, NW, Suite 745
Washington, DC 20002.
-

Continued on next page

Informal Complaint (Pre-Complaint Process), Continued

EEO Counseling Process The table below illustrates what happens once the OEEO receives an informal complaint.

Stage	Description						
1	OEEO assigns an EEO counselor to the aggrieved.						
2	EEO counselor contacts the aggrieved and schedules an initial interview.						
3	<p>EEO counselor:</p> <ul style="list-style-type: none"> Provides information to the aggrieved concerning how the federal sector EEO process works, including timeframes; Informs the aggrieved of their right to pursue the informal complaint under: <ul style="list-style-type: none"> EEO complaint process; ADR; Negotiated grievance procedure (PSA only); or Merit Systems Protection Board (MSPB) appeal process (mixed cases) where applicable; and Reviews the intake form and determines the issue(s) and basis(es) raised by the aggrieved and the remedy(ies) requested. 						
4	<p>The table below illustrates what happens when ADR is or is not selected by the aggrieved.</p> <table> <tr> <th>When ADR is...</th><th>Then the EEO Counselor...</th></tr> <tr> <td>selected</td><td> <ul style="list-style-type: none"> refers the aggrieved to ADR (See PS 1005 Alternative Dispute Resolution); and OEEO in consultation with ADR determines if ADR is appropriate in a given case. <p><u>Time Frame</u> ADR must be completed within 90 calendar days from the date the aggrieved made the initial contact with the OEEO.</p> </td></tr> <tr> <td>not selected</td><td> <ul style="list-style-type: none"> conducts an informal inquiry; and attempts to resolve the complaint. <p><u>Time Frame</u> <ul style="list-style-type: none"> Informal inquiry must be completed within 30 calendar days from the date the aggrieved made the initial contact. This period may be extended up to 60 additional calendar days for a total of 90 calendar days. </p> </td></tr> </table>	When ADR is...	Then the EEO Counselor...	selected	<ul style="list-style-type: none"> refers the aggrieved to ADR (See PS 1005 Alternative Dispute Resolution); and OEEO in consultation with ADR determines if ADR is appropriate in a given case. <p><u>Time Frame</u> ADR must be completed within 90 calendar days from the date the aggrieved made the initial contact with the OEEO.</p>	not selected	<ul style="list-style-type: none"> conducts an informal inquiry; and attempts to resolve the complaint. <p><u>Time Frame</u> <ul style="list-style-type: none"> Informal inquiry must be completed within 30 calendar days from the date the aggrieved made the initial contact. This period may be extended up to 60 additional calendar days for a total of 90 calendar days. </p>
When ADR is...	Then the EEO Counselor...						
selected	<ul style="list-style-type: none"> refers the aggrieved to ADR (See PS 1005 Alternative Dispute Resolution); and OEEO in consultation with ADR determines if ADR is appropriate in a given case. <p><u>Time Frame</u> ADR must be completed within 90 calendar days from the date the aggrieved made the initial contact with the OEEO.</p>						
not selected	<ul style="list-style-type: none"> conducts an informal inquiry; and attempts to resolve the complaint. <p><u>Time Frame</u> <ul style="list-style-type: none"> Informal inquiry must be completed within 30 calendar days from the date the aggrieved made the initial contact. This period may be extended up to 60 additional calendar days for a total of 90 calendar days. </p>						

Continued on next page

Informal Complaint (Pre-Complaint Process), Continued

Final Interview If a resolution is not achieved during the informal complaint process or ADR, the EEO Counselor conducts a final interview with the aggrieved. The final interview is conducted within **30 calendar days** (90 calendar days, if extended by agreement or ADR) from the date the aggrieved made the initial contact with the OEEC.

During the final interview, the EEO counselor:

- Summarizes the claims (basis(es) and issues);
 - Reviews any attempts at resolution (actions taken during EEO counseling if ADR is not elected); and
 - Issues the Notice of Right to File that provides information on the right to file a formal complaint.
-

Formal Complaint

Time Frame for Initiating a Formal Complaint

Formal complaints **must** be:

- Filed within **15 calendar days** of receiving Notice of Right to File;
- In writing, preferably on CSOSA Form 200, provided with Notice of Right to File; and
- Sufficiently precise to identify the complainant and describe the alleged discriminatory action(s) (i.e., the issue(s)) and the reason(s) for the alleged discrimination (i.e., the basis(es)).

NOTE:

Formal complaints **must** only contain claims (or like or related to claims) raised in the informal complaint. A complainant may amend their formal complaint (to include like or related claims) before its dismissal or the conclusion of the investigation.

How to File a Formal Complaint

A formal complaint may be filed using one of the following options:

- In person or by mail
Office of Equal Employment Opportunity (OEEO)
800 North Capitol Street, NW, Suite 745
Washington, DC 20002; and
 - E-mail a PDF copy of CSOSA Form 200 to EEOComplaints@CSOSA.gov.
-

After a Formal Complaint is Filed

The OEEO:

- Acknowledges receipt of the formal complaint in writing;
 - Determines if any part of the formal complaint must be dismissed based on EEOC guidance in [29 CFR Part 1614 Subpart A § 1614.107 Dismissals of Complaints](#);
 - Provides written documentation outlining the reason(s) for dismissal and the complainant's right to appeal the decision if the formal complaint or portions of it are dismissed; and
 - Identifies the specific claims accepted for investigation.
-

Continued on next page

Formal Complaint, Continued

Purpose of Investigation

Investigations are conducted by the OEEO staff or contractor. The purpose of the investigation is to develop an impartial and appropriate factual record on which to make findings on the EEO claims raised by the complainant. An appropriate factual record is defined in the regulations as one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred [29 CFR Section 1614.108\(b\)](#).

Investigation

The table below illustrates the investigative process.

Stage	Description
1	OEEO assigns an investigator (OEEO staff or contractor) to conduct an official investigation into the claims accepted for investigation.
2	<p>The investigator conducts interviews, requests information and copies of relevant documents, and administers oaths to obtain sworn or affirmed testimony, as needed.</p> <p>NOTES:</p> <ul style="list-style-type: none">• The investigator determines relevant witnesses and documentation to include in the report of investigation, which is also referred to as the investigative file.• The investigator makes no findings or recommendations of discrimination.

Continued on next page

Formal Complaint, Continued

Duty to Cooperate

To ensure the integrity of the EEO complaint process and avoid delays in completing the investigation, the complainant, the Agency, and any federal employee **must** cooperate with the investigator:

- Statements (or signed notarized affidavits) and/or documents must be provided to the investigator within **seven (7) calendar days**, unless instructed otherwise by the investigator; and
- The investigator **must** be contacted in case of a delay and informed when the statement (including notarized affidavits) and/or documents will be provided

Consequences for Failure to Cooperate

- An employee's failure to cooperate in the investigation without good cause is noted in the report of investigation.
- Uncooperative employees are reported to the OEEO Director and may be referred to the appropriate management official for disciplinary action, up to and including removal.
- A former employee's failure to cooperate is reported to their current federal agency, if any.

Where to Direct Questions

All questions about the investigation (e.g., information requested by the investigator) **must** be referred to the OEEO Director.

Continued on next page

Formal Complaint, Continued

Time Frame for Completing an Investigation

- The investigator **must** complete the investigation within **180 calendar days** of OEEC receiving the formal complaint, with a possible extension for **90 additional calendar days**, on mutual agreement between the OEEC and the complainant.
 - When a formal complaint has been amended, the investigator **must** complete the investigation within **180 calendar days** after the last amendment or **360 calendar days** of OEEC receiving the original formal complaint, whichever date occurs first.
-

Final Agency Action

After the Investigation

When the investigation is finished, the complainant is provided a copy of the report of investigation, also known as the investigative file, which includes the investigative summary, witness statements, and all other documents collected during the investigation. The complainant has **30 calendar days** of receiving the report of the investigation/investigative file to do one of two (2) things:

- Request an agency decision; or
- Request a hearing and decision from the EEOC Administrative Judge (AJ).

NOTE:

If the complainant fails to make an election within **30 calendar days** of receiving the investigative file, the OEEC Director or designee issues a final agency decision.

Helpful Terms

The table below defines the terms final agency decision, order, and action.

Term	Definition
Final agency decision	An agency's decision on the formal complaint
Final agency order	An agency's decision to implement or not implement the EEOC AJ's decision on the formal complaint.
Final agency action	An agency's last and final action on the formal complaint. Final agency action may be in the form of a final agency decision or order.

Continued on next page

Final Agency Action, Continued

Final Agency Action The table below illustrates the final agency action when a complainant requests an agency decision or a hearing and decision from the EEOC AJ.

When the Complainant Requests ...	Then...								
a final agency decision	OEEC Director or designee issues a final agency decision within 60 calendar days of receiving the complainant's request								
an EEOC hearing and decision	<p>The table below illustrates the EEOC hearing and decision process.</p> <table> <tr> <th>Stage</th><th>Description</th></tr> <tr> <td>1</td><td>The complainant submits a request for an EEOC hearing and decision via the EEOC Public Portal at https://publicportal.eeoc.gov/ with a copy to the OEEC.</td></tr> <tr> <td>2</td><td> <p>The EEOC AJ:</p> <p>Within 180 calendar days of receiving the request:</p> <ul style="list-style-type: none"> • Conducts the hearing; • Makes a decision; and • Orders relief if discrimination is found. </td></tr> <tr> <td>3</td><td> <p>The OEEC Director or designee issues a final agency order within 40 calendar days of receiving the EEOC AJ's decision.</p> <p>NOTE:</p> <p>If the OEEC Director or designee does not issue a final agency order within 40 calendar days, the EEOC AJ's decision becomes the final agency action.</p> </td></tr> </table>	Stage	Description	1	The complainant submits a request for an EEOC hearing and decision via the EEOC Public Portal at https://publicportal.eeoc.gov/ with a copy to the OEEC.	2	<p>The EEOC AJ:</p> <p>Within 180 calendar days of receiving the request:</p> <ul style="list-style-type: none"> • Conducts the hearing; • Makes a decision; and • Orders relief if discrimination is found. 	3	<p>The OEEC Director or designee issues a final agency order within 40 calendar days of receiving the EEOC AJ's decision.</p> <p>NOTE:</p> <p>If the OEEC Director or designee does not issue a final agency order within 40 calendar days, the EEOC AJ's decision becomes the final agency action.</p>
Stage	Description								
1	The complainant submits a request for an EEOC hearing and decision via the EEOC Public Portal at https://publicportal.eeoc.gov/ with a copy to the OEEC.								
2	<p>The EEOC AJ:</p> <p>Within 180 calendar days of receiving the request:</p> <ul style="list-style-type: none"> • Conducts the hearing; • Makes a decision; and • Orders relief if discrimination is found. 								
3	<p>The OEEC Director or designee issues a final agency order within 40 calendar days of receiving the EEOC AJ's decision.</p> <p>NOTE:</p> <p>If the OEEC Director or designee does not issue a final agency order within 40 calendar days, the EEOC AJ's decision becomes the final agency action.</p>								

Appeals to the EEOC

Time Frame for Initiating the Appeal

The complainant can appeal an agency's final action (decision or order) to the EEOC Office of Federal Operations (OFO).

The appeal **must** be:

- Filed no later than **30 calendar days** after receiving the agency's final action; and
 - In writing on EEOC Form 573 Notice of Appeal/Petition, and must indicate what is being appealed.
-

How to File an Appeal

An appeal may be filed using one of the following options:

- Submit directly via the EEOC Public Portal located at <https://publicportal.eeoc.gov/>; or
 - Mail, hand-deliver, or fax the appeal to EEOC OFO. See <https://publicportal.eeoc.gov/> for current contact information.
-

Appeal Process

The EEOC OFO reviews the entire file (e.g., complaint file, report of investigation/investigative file, final agency action, etc.) and issues a written decision describing the reasons for the decision within **6 to 10 months** (or longer) after filing of the appeal.

Reconsideration of the Appeal Decision

If the appellant or the Agency does not agree with the EEOC OFO's decision on the appeal, either party can ask for a reconsideration of that decision. The appellant or the Agency **must** request reconsideration no later than **30 calendar days** after receiving the appeal decision.

A request for reconsideration is only granted if the appellant or the Agency can show that the decision:

- Involved an erroneous interpretation of material fact or law; or
- Will have a substantial impact on the policies, practices, or operations of the Agency.

NOTE:

EEOC OFO's decision on the reconsideration is final.

Filing a Civil Action, Provisions Applicable to ADEA, EPA, and Grievance Procedure

Use the EEO Complaint Process Before Filing a Civil Action

Consistent with the EEOC regulations, individuals **must** participate in the EEO complaint process before filing a civil action. However, the table below illustrates the various points in the EEO complaint process where the individual may opt out and file a civil action in federal court.

When an EEOC Appeal ...	Then a Civil Action May Be Filed...
has not been filed	<ul style="list-style-type: none">• after 180 calendar days of filing a formal complaint if the Agency has not issued a final agency decision; or• within 90 calendar days of receiving the final agency decision.
has been filed	<ul style="list-style-type: none">• after 180 calendar days of filing an appeal if the EEOC OFO has not issued a decision; or• within 90 calendar days of receiving the EEOC OFO's appeal decision.

NOTE:

When a civil action is filed, the Agency or the EEOC stops processing the complaint.

Age Discrimination in Employment Act (ADEA)

The Age Discrimination in Employment Act (ADEA) protects applicants and employees 40 years and older from employment discrimination based on age. A complainant who raises a claim under the ADEA may bypass the EEO complaint process and file a civil action in federal court.

Time Frame

The civil action:

- Must be filed within **180 calendar days** of the occurrence of the alleged unlawful practice; and
- The complainant must give the EEOC at least **30 calendar days** written notice of the intent to file such an action.

The written notice may be mailed, hand-delivered, or faxed to EEOC. See <https://publicportal.eeoc.gov/> for current contact information.

Continued on next page

Filing a Civil Action, Provisions Applicable to ADEA, EPA, and Grievance Procedure, Continued

Equal Pay Act (EPA)

The Equal Pay Act (EPA) prohibits pay discrimination based on sex. A complainant who raises a claim under the EPA may bypass the EEO complaint process and file a civil action in federal court.

Time Frame

The civil action must be filed within **two (2) years** of the alleged unlawful compensation practice or, in the case of a willful violation, within **three (3) years**.

EEO Complaint Process vs. Negotiated Grievance Procedure

PSA employees covered by the collective bargaining agreement permitting allegations of discrimination to be raised in a negotiated grievance procedure may elect to raise the matter **either** under the EEO complaint process **or** the negotiated grievance procedure, but **not both** (29 CFR § 1614.301).

- The employee's decision to proceed under the EEO complaint process begins when a **formal** complaint is filed.
- The employee's decision to proceed under the negotiated grievance procedure begins when a timely written grievance is filed.

If the employee is unsatisfied with the final grievance decision, they may appeal it to the EEOC OFO.

NOTE:

CSOSA employees must raise the matter under the EEO complaint process.

Mixed Cases: Merit System Protection Board Appeal Process

What is a Mixed Case?

The table below defines the terms: mixed case complaint and mixed case appeal.

Term	Definition
Mixed case complaint	A discrimination complaint is filed with a federal agency when the claim involves a personnel action appealable to the MSPB.
Mixed case appeal	An appeal filed directly with the MSPB that alleges a personnel action appealable to the MSPB was affected, in whole or in part, by discrimination.

Eligibility Criteria

The following criteria **must** be met for mixed case regulations to apply:

- The employee must be eligible to file an appeal with the MSPB. [See MSPB for a complete list](#); and
- The claim or issue asserted in the discrimination complaint must be an action appealable to the MSPB.

Personnel Actions Appealable to the MSPB

Appealable MSPB actions include but are not limited to the following:

- Adverse actions:
 - Removals;
 - Suspensions of more than 14 days;
 - Reductions in grade or pay; and
 - Furloughs of 30 days or less;
- Performance-based actions:
 - Removals; and
 - Reductions in grade;
- Denials of within-grade increases; and
- Reductions-in-force.

See [5 CFR 1201.3\(a\)](#) for a complete listing.

Continued on next page

Mixed Cases: Merit System Protection Board Appeal Process, Continued

Making an Election in Mixed Cases

An eligible employee may raise claims of discrimination **in** a mixed case as **either an EEO complaint** with the agency or direct appeal to the MSPB, but **not both**. Whatever action the employee files first is considered an election to proceed in that forum.

An MSPB appeal may contain only claims of employment discrimination or additional non-discrimination claims that the MSPB has jurisdiction to address.

- The employee's decision to proceed under the EEO complaint process begins when a **formal** complaint is filed.
 - The employee's decision to proceed under the MSPB appeal process begins when a timely MSPB appeal is filed.
-

Mixed Case Complaint

If an employee elects to raise the mixed case under the EEO complaint process, the agency processes the complaint as it would any other discrimination complaint **except**:

- The complainant has no right to request a hearing and decision from the EEOC AJ upon receiving the report of investigation/investigative file; and
- The final agency decision is issued within **45 calendar days** of completing the investigation.

Mixed Case Complaint Appeals

- Appeals are made to MSPB (not EEOC) within **30 calendar days** of receiving the final agency decision.
 - Appeals are made to MSPB **or** a civil action is filed in federal court if a final agency decision has not been issued within **120 calendar days** of filing the formal mixed case complaint.
-

Continued on next page

Mixed Cases: Merit System Protection Board Appeal Process, Continued

Mixed Case Appeal

If an employee elects to raise the mixed case under the MSPB appeal process, visit <https://www.mspb.gov>. MSPB appeals must be filed within the following:

- **30 calendar days** after the effective date of the personnel action; or
- **30 calendar days** after receiving the final agency decision, whichever is later.

MSPB Decision Appeals

MSPB decisions are appealable to the EEOC. Appeals **must** be made within **30 calendar days** of receiving the decision.

The table below illustrates the potential outcomes of an appeal.

When...	Then...
EEOC disagrees with the MSPB decision	MSPB is allowed to adopt the EEOC's decision.
MSPB does not adopt the EEOC's decision	<ul style="list-style-type: none">• Appeal is referred to a special panel of MSPB and the EEOC representatives.• The special panel issues a final decision.

The special panel's decisions are appealable to the appropriate United States District Court (i.e., civil suit in federal court).
