

3 FAM 1560

PROCESSING MIXED CASE COMPLAINTS

(CT:PER-555; 07-06-2005)
(Office of Origin: OCR)

3 FAM 1561 DEFINITIONS

(CT:PER-555; 07-06-2005)
(State)
(Civil Service Employees Only)

- a. In the Civil Service context, a “mixed case complaint” alleges discrimination on a statutorily protected basis (*i.e.*, race, color, national origin, sex, religion, age, disability or reprisal) related to or stemming from an action that can be appealed to the Merit Systems Protection Board (*i.e.*, suspension over 14 days or termination) and is processed through the Department’s administrative EEO complaints process.
- b. In the Civil Service context, a “mixed case appeal” alleges that an action over which the Merit Systems Protection Board has jurisdiction (*i.e.*, suspension over 14 days or termination), which is claimed to have been effected, in whole or in part, because of illegal discrimination. A mixed case appeal may be brought for resolution directly to the Merit Systems Protection Board, without consideration through the Department’s administrative EEO complaints process.

3 FAM 1562 AUTHORITY

(CT:PER-555; 07-06-2005)
(State)
(Civil Service Employees Only)

- a. The Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e-16).
- b. The Age Discrimination in Employment Act, as amended (ADEA) (29 U.S.C. 206(d)).
- c. The Rehabilitation Act of 1973, as amended (Rehabilitation Act) (29 U.S.C. 791 *et seq.*).
- d. The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).

- e. The Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR 1614.302.
- f. The Merit Systems Protection Board (MSPB) regulations at 5 CFR 1201.151.

3 FAM 1563 APPLICABILITY

(CT:PER-555; 07-06-2005)
(State)
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These regulations apply to all U.S. citizen Civil Service employees of the Department of State who have rights of appeal to the MSPB.

3 FAM 1564 CHOICE OF FORUM

(CT:PER-555; 07-06-2005)
(State)
(Civil Service Employees Only)

An individual may file a mixed case complaint initially with the Office of Civil Rights (S/OCR) instead of a mixed case appeal of the underlying agency action with the MSPB, or vice versa, but not both. In order for a mixed case to be processed through the EEO administrative process, all regulatory procedural requirements must be met in accordance with 29 C.F.R. 1614.

3 FAM 1565 THROUGH 1569 UNASSIGNED