

- b. If the individual filed the appeal after the agency issued an agency final decision on the mixed case complaint or after the agency failed to issue a final decision on the mixed case complaint **within 120 days**, the agency must provide the complainant with a thirty (30) day notice of right to a hearing and decision from an EEOC Administrative Judge or an immediate final decision by the agency pursuant to § 1614.108(f) and thereafter proceed as in a non-mixed case.

6. Processing Mixed Case Complaints Filed at the Agency

If an employee elects to file a mixed case complaint, the agency must process the complaint in the same manner as it would any other discrimination complaint, except:

- a. Within **forty-five (45) days** following completion of the investigation, the agency must issue a final decision without a hearing before an EEOC Administrative Judge.
- b. Upon the filing of a complaint, the agency must advise the complainant that if a final decision is not issued within **120 days** of the date of filing the mixed case complaint, the complainant may appeal the claim to the MSPB at any time thereafter, as specified in 5 C.F.R. § 1201.154(a), or may file a civil action as specified in § 1614.310(g), but not both.
- c. Also upon the filing of a complaint, the agency must notify the complainant that if s/he is dissatisfied with the agency's final decision on the mixed case complaint, s/he may appeal the claim to the MSPB (not the EEOC) within **thirty (30) days** of receipt of the agency's final decision.
- d. Upon completion of the investigation, the agency must notify the complainant that a final decision will be issued within forty-five (45) days without a hearing before an EEOC Administrative Judge.
- e. Upon issuance of the agency's final decision on a mixed case complaint, the agency must advise the complainant of the right to appeal the claim to the MSPB (not EEOC) within **30 days** of receipt of the notice and of the right to file a civil action as provided in § 1614.310(a).