

§ 1172.40 Exhaustion of administrative remedies.

(a) A complainant may file a civil action under the Act and the regulations in this part following the exhaustion of administrative remedies. Administrative remedies are exhausted if one hundred eighty (180) days have elapsed since the complainant filed the complaint and NEH has made no finding with regard to the complaint, or NEH issues any finding in favor of the recipient.

(b) If either of the conditions set forth in § 1172.40(a) is satisfied, NEH will:

(1) Promptly advise the complainant of this fact,

(2) Advise the complainant of his or her right, to bring a civil action for injunctive relief, and

(3) Inform the complainant:

(i) That a civil action can only be brought in a United States district court for the district in which the recipient is found or transacts business,

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint,

(iii) That before commencing the action, the complainant must give thirty (30) days' notice by registered mail to the Secretary, the Attorney General of the United States, the Chairman, and the recipient,

(iv) That the notice must state the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and, whether or not attorney's fees are demanded in the event the complainant prevails, and

(v) That no action may be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.