

Statement of Reasons for Dismissing
the Complaint of [REDACTED]
Concerning the Rerun Election of Officers
Local 634, Hotel Employees and
Restaurant Employees International Union, AFL-CIO
Concluded on January 25, 1995
Philadelphia, Pennsylvania

The complainant, [REDACTED] is a member in good standing of Local 634 (local), Hotel Employees and Restaurant Employees International Union (International), AFL-CIO. In [REDACTED] protest to the union and [REDACTED] subsequent timely complaint to the Secretary of Labor, the complainant alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. § 481 et seq. (the Act), occurred in connection with the local's January 7, 1995 rerun election of officers.

The Department of Labor investigation revealed that at the time of the rerun election and at the time the complaint was filed with the Secretary, Local 634 was not a labor organization covered by the provisions of the Act. Local 634 is composed entirely of public employees; it represents employees of the Philadelphia School District. Organizations so composed are not subject to the provisions of the Act. As the Secretary of Labor's interpretative regulation explains:

An organization composed entirely of government employees (other than employees of the United States Postal Service) is not subject to the election provisions of the Act. Section 3(e) of the Act, defining the term "employer," specifically excludes the United States Government, its wholly owned corporations, and the States and their political subdivisions from the scope of that term, and section 3(f) defines an "employee" as an individual employed by an "employer." Since a "labor organization" is defined in section 3(i) as one in which "employees" participate and which exists in whole or in part for the purpose of "dealing with employers," an organization composed entirely of government employees would not be a "labor organization" as that term is defined in the Act.

29 C.F.R. § 452.12 (footnotes omitted). See also 29 C.F.R. § 451.3(a)(4). Therefore, the Secretary does not have jurisdiction to act with respect to the complainant's instant allegations.

However, the investigation revealed that Local 634 as an affiliate of HERE International elects delegates to the International Convention. These delegates, in turn, participate in the election of International officers. The International is a labor organization within the meaning of the Act, 29 U.S.C. §§ 402 (i) and (j) and its elections are subject to the Act's provisions. Thus, after exhausting internal union remedies, as set forth in the International's Constitution and Bylaws and after the delegates participate in the election of officers, the complainant or any member in good standing may file a complaint with the Secretary of Labor concerning the election of International officers if the complainant or member believes that a violation occurred which may have affected the outcome of the election.

Based on the foregoing, we are closing our file in this matter.