



Labor Update No. 23 December 1, 2017

***This bulletin contains information on law changes that have either passed, or are being discussed, in parliament, court decisions, and other labor issues in Japan that are of interest to activists.***

## **1. Law/Policy**

- (1) Labor Ministry moves to propose amendment allowing side work, revising of work rules: criticism for “running counter to the shortening of work hours”

The Ministry of Health, Welfare and Labor has settled on a plan to revise the “model working rules”, provided as a reference for companies to use in making their working rules, in order to make it easier for employees to have second jobs or sideline work. The plan is to delete the rule forbidding second jobs, changing the rules to in principle allow sideline work. But there are some worries from representatives of labor and capital, who say it may run counter to improving the situation of overlong working hours.

The Ministry has also provided proposed guidelines for companies and workers regarding second jobs and sideline work.

“4th Council on Flexible Work-styles” linked below (in Japanese)

<http://www.mhlw.go.jp/stf/shingi2/0000185340.html>

- (2) Education Ministry, to protect teachers from overwork, moves to indicate upper limits on working hours

The Ministry of Education, Culture, Sports, Science and Technology (MEXT), in order to ease the long working hours of teachers in public schools, has decided on a plan to consider an upper limit on working hours and indicate this as a guideline to school workplaces. They say they will draw this up within the first half of next year. By setting a number as a goal, the aim is to improve the current situation, in which many teachers' working hours are hitting the “*karoshi* line”.

In the interim summary proposal presented on November 28, work that teachers and schools have been responsible for outside of lessons was also sorted into categories. For example, it says that “watching over students on the way to and from school” and “after-school and night-time patrols” should be taken care of by someone other than the school, in order to lessen the load on teachers. For “leading club activities”, which is especially a burden on junior-high-school teachers, use of outside instructors would

be expanded, and in the future, it is suggested, might become the responsibility of the local neighborhood rather than the school.

Teachers' salary structure, where instead of receiving overtime pay, they are paid an across-the-board allowance of 4% on top of their monthly salary, has been pointed out as one of the causes of their long working hours. Since overtime is not paid, management of working hours has been neglected, and it is easy not to have much awareness of being "after hours". On this problem, the interim summary report goes only so far as to say that "there is a need to continue discussion", and does not take any steps toward a fundamental solution.

Information on MEXT Central Education Council's 8<sup>th</sup> "Special Subcommittee Meeting on Work-Style Reform in Schools" linked below (in Japanese):

[http://www.mext.go.jp/b\\_menu/shingi/chukyo/chukyo3/079/siryo/1398854.htm](http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo3/079/siryo/1398854.htm)

(3) Sex reassignment surgery for people with Gender Identity Disorder to be covered by health insurance, starting next year

The Ministry of Health, Welfare and Labor has settled on a plan to have public medical insurance cover sex reassignment surgery—surgery to match a person's bodily sex to their gender identity, for people with Gender Identity Disorder (in which a person's bodily sex does not match the gender they identify with). The proposal was made to the Central Social Insurance Medical Council at their November 29<sup>th</sup> meeting, and was broadly accepted.

This operation is currently not covered by insurance, and therefore the cost is very high. If it becomes covered, the patient's cost burden would in principle only be 30% - 10%. The high-cost medical-care benefit system places an upper limit on the patient's cost burden.

In consideration of the fact that medical conditions are in place for people to receive sex reassignment surgery, and of the growing social acknowledgement of gender minorities, the Ministry had considered it necessary to discuss the advisability of insurance coverage for the surgery.

From documents distributed at Ministry of Health, Welfare and Labor Central Social Insurance Medical Council's 374<sup>th</sup> general meeting (in Japanese; pages 35-42):

<http://www.mhlw.go.jp/file/05-Shingikai-12404000-Hokenkyoku-Iryouka/0000186242.pdf>

## **2. Legal Violations/Struggles**

Gifu Municipal Hospital raises overtime limit to 150 hours

It came to light on November 18 that Gifu Municipal Hospital, having received a citation from Gifu Labor Standards Inspection Office for making doctors work more than the upper limit of 100 hours of overtime per month specified in the labor

agreement on overtime work (3-6 agreement), signed a new agreement setting the limit at 150 hours. Criticism has been heard that “this is against the spirit of the Labor Standards Law, and nonsense”.

According to the hospital, in May of 2016 they signed an agreement allowing overtime work of “up to 100 hours in a month, up to 6 times per year”. However, it became clear through the Labor Standards Inspection Office’s investigation that multiple doctors were working more than that limit. The Inspection Office immediately issued a citation demanding the situation be rectified. Then this year, in May, a new agreement was signed setting the limit at 150 hours.

(2) Industrial injury recognized at Tokyo Disneyland: acute arm pain from character costume

A 28-year-old woman who performed in costume for shows and parades as a contract employee at Tokyo Disneyland (TDL, Urayasu City, Chiba Prefecture) has gained industrial-accident recognition from Funabashi Labor Standards Inspection Office. The Inspection Office certified that symptoms she suffered, including sharp pains in her arm, were due to overwork.

The woman had performed in shows and parades since February of 2015, dressed as various Disney characters.

Her contract was renewed every year. In November and December of 2016, she performed in parades a total of 50 times. Her costume for the Christmas parade, in which she performed at the end of 2016, limited the movement of her neck and weighed nearly 10 kilograms. She says she was directed to raise both arms above the level of her face for the whole length of each parade, 45 minutes at a time.

(3) “Fake outsourcing at prison”: former driver sues national government at Osaka District Court

A 61-year-old man who was a driver for a company that was contracted to provide transportation from Osaka Medical Prison (Sakai City) filed suit in Osaka District Court against the national government on the 21st. Claiming there was “false outsourcing”, in which he received work instructions from the prison, he is suing for direct employment status and 2 million yen compensation.

The man was hired in April of 2012 by a company with an outsourcing (*gyomu itaku*) contract with Osaka Medical Prison, and worked as a minibus driver to transport inmates. He claims that prison staff drew up the vehicle operation plan and gave him instructions, and that this was false outsourcing, a violation of the Labor Dispatch Law.

Receiving the man’s complaint, the Osaka Labor Bureau in November recognized this as illegal and issued guidance to correct the problem. The prison switched to a dispatch contract, allowing them to give instructions directly, but in March of this year the man had his employment contract non-renewed by the employer.

- (4) Tohoku U. dismissals: only 669 pass test for “limited regular staff”—positions without recommendation drop by 60%

Regarding the problem of Tohoku University dismissing about 3,000 irregular staff starting at the end of March 2018, it has become clear as of November 28 that only 669 people passed the employment test for “limited regular staff” positions to be introduced that April. For positions requiring a recommendation from the department as a condition of applying, all applicants passed; but on the other hand, for those positions not requiring this, the pass rate was only 38.8%.

In response to the second open letter of inquiry from the Tohoku University Staff Union pointing out that “the new system goes against the spirit of the law”, university president Susumu Satomi responded that “the answer is no different from what I answered before”. The first time, he expressed a belief that “[the new system] can, on the contrary, actually be expected to have the effect of attracting capable personnel to this university”.

### **3. Situation/Statistics**

- (1) RENGO (Japanese Trade Union Confederation, JTUC) publishes “Guideline for Measures Aimed at Banning Discrimination Based on Sexual Orientation or Gender Identity”

This will be useful in understanding the issues. May it be put to practical use.

[https://www.jtuc-rengo.or.jp/activity/gender/data/guideline\\_no-discrimination201711.pdf](https://www.jtuc-rengo.or.jp/activity/gender/data/guideline_no-discrimination201711.pdf)

- (2) ILO: 70 million young people unemployed worldwide; over 20% are NEETs (Not in Employment, Education or Training)

On the 20<sup>th</sup>, The International Labor Organization (ILO) published a report saying that, of the world’s young people aged 15 to 24, an estimated 70.9 million had no employment in 2017, and the unemployment rate reached 13%. The report pointed out that even those employed were placed under disadvantageous conditions compared to those 25 and over in regard to pay, etc., and there were many examples of such people falling into the “working poor”.

Of these young people, approximately 22% were estimated to be NEETs: neither employed, nor in school, nor doing vocational training. There were especially many of these among young women in developing countries, with large gender gaps remaining in the labor market, and the ILO has asked countries to make efforts in reducing these gaps.

According to the report, the number of unemployed young people reached 76.7 million in 2009. Since then, it has improved, but remains at a high level.

ILO report linked below (in English):

(3) Sapporo City: people with Gender Identity Disorder to be allowed to indicate an “alias” on insurance cards starting in December

Sapporo City announced on November 21 that, in consideration of the needs of people with Gender Identity Disorder (in which one’s gender identity does not match one’s bodily sex), they will allow the indication of an alias, different from one’s officially registered name, on national Health Insurance cards, etc. Applications will be accepted at Ward Offices beginning on December 1.

City residents with Gender Identity Disorder who use an alias will be eligible. As well as National Health Insurance cards and Nursing Insurance cards, it will also be accepted for all kinds of medical expense assistance recipient cards. For those that apply, the alias will be printed on the front of the card, and the legally registered name will be noted in the remarks column on the back.

(4) Panasonic to make part-time employees at nursing-care subsidiary full-time

A Panasonic subsidiary company engaged in nursing-care services, to deal with a shortage of personnel, is to introduce a system next April in which part-timers will be able to work as regular employees and choose their hours.

In April of next year, the company will begin a system for part-time employees, etc., where if they work for longer than 1 year, they can work hourly with the conditions of regular company employees.

Under the new system, while they will still be able to choose their working hours like part-timers, their hourly wage will be made the same level as that of regular employees, and their other conditions, including severance pay, will also be made the same.