



Labor Update No.87 May 15, 2020

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) Under state of emergency, MEXT sends notice to schools to reopen with staggered attendance

With the state of emergency due to the spread of COVID-19 set to continue after Golden Week, the Ministry of Education, Culture, Sports, Science, and Technology (MEXT) has released a notice called “Regarding Arrangements in School Management”, which sets forth guidelines for a phased reopening of schools.

On the assumption that the virus will continue to spread for a long time, the guidelines indicate a path to reopening schools even in areas under an emergency declaration by avoiding the so-called “3 C’s” (confined spaces, crowding, close contact), which are said to cause high risk of infection. With staggered school attendance, priority would be given to elementary-school students in 6th grade and junior-high students in their third year, due to the need for counseling for their next step in schooling. Consideration would also be needed for elementary school students in the first grade, for whom in-person attention from teachers is especially important. The notice also clarifies that certain classes (such as music, home economics, industrial arts, and P.E.) as well as school events like sports days, culture festivals, and school trips, will not be held, since the 3 C’s would be unavoidable in such activities.

“Regarding Arrangements in School Management Related to Temporary Closings in Response to Spread of Novel Coronavirus Disease (Notice)” 2 Monka Sho Hatsu #222, May 1, 2020, MEXT

<https://www.mext.go.jp/content/000051148.pdf>

(2) Summary of “Amended Elderly Persons Employment Stability Act” (effective April 1, 2021)

<https://www.mhlw.go.jp/content/11600000/000626609.pdf>

(3) “Notice of Special Provisions for Employment Insurance Job-Seekers’ Benefit due to COVID-19”: MHWL

<https://www.mhlw.go.jp/content/11600000/000628804.pdf>

2. Legal Violations/Disputes

(1) Precarious position of after-school care workers thrown into relief: teachers laid off, parents bewildered

While everyone is dealing with COVID-19, after-school care teachers in Moriguchi City, Osaka, have been laid off *en masse*. The incident symbolizes the precarious position in which providers of public service are working. Parents, seeing the people their children had become attached to suddenly disappear, are unable to hide their unease.

On the evening of March 12, a woman in her 50s who worked as a care teacher was summoned by management of Kyoritsu Maintenance, her employer, to the gate of the elementary school building where her after-school care group was held.

“Please read this.” She was handed a “Warning and Notification”. She had printed a newsletter in color, she had held a cooking lesson in the after-school care room instead of the home-economics room: about ten similar items were listed, with the note that “this warrants disciplinary action”. When the woman asked “will I be fired over this?”, she was told “we don’t know”.

The woman started working in after-school care nearly 40 years ago. She was employed as a part-time public servant, but due to the private outsourcing of the job, last year she signed a one-year employment contract with the company. Her monthly salary was about ¥210,000. She thought she would be able to continue working just as before, but on March 23, the company gave her notice that her employment was being terminated.

Most of the care teachers who have been let go in this wave of firings are members of a union. The union has been demanding collective bargaining since last year, but the company has refused. The Osaka Prefectural Labor Commission has judged this to be an unfair labor practice, issuing an order for relief dated April 20.

There are many public service workers who are in precarious situations. According to a 2016 Interior Ministry survey, the number of part-time public servants nationwide is over 640,000. For low wages, they work in counter services, at schools and day-care centers, and in after-school care. In April of this year, the amended Local Public Service Act came into effect, starting a new system. This was expected to bring improvement in conditions, such as making part-timers able to receive end-of-term allowances (bonuses).

However, a conspicuous number of local governments, thinking to avoid personnel costs, are considering switching to private outsourcing of public services. There are many part-time public service workers who, just as in Moriguchi, have been placed in even more precarious situations by being switched from public employment to private outsourcing; but the full details are not yet clear.

(2) NOVA teachers avoid strike: company to return pay docked for taking days off due

to coronavirus

As the coronavirus infection spread, major English language-school chain NOVA had charged some teachers a fee for taking days off in order to prevent being infected while commuting to work. Now it has become known that the company has agreed to a union's demand to return this money to the teachers. The union had opposed the fees as "a *de facto* fine", and had been ready to go on strike, but this has been avoided. The company will also introduce allowances for absence from work. The labor agreement is dated May 8.

According to the General Union, the union the teachers belong to, some teachers are on "outsourcing" contracts under which they are paid per lesson. If they stayed home due to the risk of infection, they went without pay. When they took time off, they were required to pay a "substitute fee" of ¥500 per lesson for the company to find a substitute teacher.

The union at one point voted in favor of a strike, but in collective bargaining that was held online, the company then made concessions. The agreement clearly states that 60% of wages will be paid when teachers stay home, and that all "substitute fees" from January on will be refunded to the teachers. It also includes a provision that those who apply can change from outsourcing contracts to employment. The union also demanded that the company allow teachers to teach online from home, but the company refused this.

Union chair Dennis Tesolat said that "for Union members, announcing a strike was a major decision that could mean giving up their livelihood. From now on, we will be paying attention to make sure they don't make non-members ineligible for the allowance".

(3) "I'm tired" says the recording he left behind: company worker's suicide ruled an industrial accident

The 2018 suicide in Nara of a man who was employed by major machine-tools company DMG Mori Seiki has been ruled an industrial accident by the Nara Labor Standards Inspection Office, granting compensation, it has become known.

The man worked more than 100 hours of overtime in October of 2018. In December of that same year, he worked 65 hours overtime before his death on the 13th. The "smart speaker" in his room, which had AI capabilities, had a recording left on it saying "I'm tired, I want to die".

(4) "Sign here, right now": constructive dismissal rampant at foreign-affiliated firm? McAfee employee sues to void forced resignation

A woman living in Tokyo who worked for foreign-affiliated security company McAfee has filed for a labor tribunal at Tokyo District Court. She claims her resignation was forced and therefore invalid, and is seeking confirmation of her employee status along with a total of 16 million yen in back wages and compensation.

On September 24, 2019, while she was having a personal interview with her manager that was not related to resigning, the managing executive-officer partner and head of marketing came into the room with the head of personnel and forced her to resign, also making her sign a “confirmation of resignation” against her will.

They continued for two hours to demand she resign. She explained multiple times that she would like them to wait for her to reply later, but they would not accept this. Afraid she would not be allowed to leave the room until she signed, she signed the document despite it being against her will.

The woman also claims she had already before that been subjected to repeated instances of workplace bullying (“power harassment”, *pawahara*) from these supervisors. She is seeking compensation for this too.

The woman has said that when she asked “will I be fired if I don’t sign this?”, she was told “yes”, that “if you do not sign, we will give you notice of termination”.

3. Situation/Statistics

(1) Toshiba decides not to extend closure, reopens with new system of 3 days off a week

Although the State of Emergency has been extended, Toshiba has not extended their period of closing, but has announced they will be re-starting business on May 7. They plan to introduce a system of three days off per week at domestic factories as soon as next month, among other measures to reduce the number of people coming to work as much as they can while maintaining their economic activity.

Along with thoroughly instituting ways to work from home (“tele-work”), they have decided to give workers in factories within Japan three days off per week. Since it is not practical for factory workers to work from home, they will increase the number of hours worked per day in exchange for decreasing the number of days per week, thus leaving workers’ yearly work hours and pay unchanged while still decreasing the number who commute to work each day.

(2) “Child refugees number a record 19 million”, reports UNICEF; coronavirus effects feared

The United Nations Children’s Fund (UNICEF) has release a report stating that last year, an estimated 19 million children--a record high number--were in the situation of being internally displaced persons (refugees within their own country) and unable to return home. The report states that these people are the most vulnerable to the effects of the spread of COVID-19, and calls on the international community to give aid as soon as possible.

Since many of these children live in overcrowded refugee camps, it is difficult to keep distance from one another. Basic hygiene facilities and health services available to

them are very limited. Also, as well as being vulnerable to violence, exploitation, abuse and human trafficking, they are also in danger from such practices as child labor and child marriage.

"19 million children internally displaced by conflict and violence in 2019, highest number ever"

<https://www.unicef.org/press-releases/19-million-children-internally-displaced-conflict-and-violence-2019-highest-number>

(3) Eurozone growth at -7.7%: worst-ever slump due to COVID-19

Predictions have shown the economic growth rate in the Eurozone, including France and Germany, will see its worst slump ever this year due to COVID-19, reaching a record low of -(minus) 7.7%.

According to the announcement from the European Commission, executive body of the EU, the rate of growth in GDP (gross domestic product) for the 19-country Eurozone over the whole of this year is predicted to be -7.7%. This is its lowest figure ever since 1996, when comparable statistics become available.

Along with this, the unemployment rate has also worsened, being predicted to go up from 7.5% last year to 9.6% this year.

"6 May 2020 - Spring 2020 Economic Forecast - recession and recovery "

https://ec.europa.eu/info/live-work-travel-eu/health/coronavirus-response_en

(4) Keidanren releases "coronavirus prevention guidelines" to go along with lifting of emergency declaration in 39 prefectures

"Guideline on Measures to Prevent Infection with Novel Coronavirus (COVID-19) in Offices"

http://www.keidanren.or.jp/policy/2020/040_guideline1.pdf