

SYSTEM OF ETHICS OF PUBLIC SERVANTS IN JAPAN

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I. THE ROLES OF THE NATIONAL PUBLIC SERVICE ETHICS BOARD

The National Personnel Authority is placed under the Cabinet Office of the Japanese government. Founded as a neutral and specialized third-party organization responsible for the personnel management of national public servants, the National Personnel Authority has the following functions: (a) to ensure fairness in personnel administration; (b) to compensate for the restrictions on basic labor rights; and (c) to act as a specialized agency for personnel administration.

The Ethics Board is set up under the National Personnel Authority as an institution specializing in the maintenance of ethics pertaining to the duties of national public servants.

II. SYSTEM OF ETHICS OF PUBLIC SERVANTS IN JAPAN

A. Assessment of Recent Achievements

1. Improvement in the ranking and score of CPI (Corruption Perceptions Index)

An NGO called Transparency International annually publishes CPI, which ranks countries by their perceived levels of corruption. Japan ranked 17th, scoring 7.8 points in the index in 2010 and ranked 14th, scoring 8 points in 2011 in the most recent survey. This is a significant improvement compared to the results in both ranking and score prior to the enactment of the National Public Service Ethics Law where Japan ranked 25th with the score of 5.8 points.

2. Decrease in the number of cases violating the Ethics Law

The number of violations had actually been on the rise until fiscal year 2008. Such increase was not necessarily because the level of awareness of ethics among public servants lowered. It was due to the fact that violations that had been overlooked started to come up to the surface because the rules and regulations stipulated in the Ethics Law became more widespread among the public officials and because the awareness of ethics among the private sector and the entire society saw an increase in recent years.

In the past couple of years, the number of cases in violation has decreased to around 20. This demonstrates that the public administration has become well versed in the stipulations in the Ethics Law, which has helped to raise the standard of ethics among public servants.

B. Structure of Duties of National Public Servants and Ethics System

The National Public Service Act specifies the duties that must be performed by all workers in the public sector. Based on the underlying premise that “every official, as a servant of all citizens, shall serve the public interest,” the law provides the various responsibilities of public servants such as their duty to obey the law and work orders, duty to refrain from taking

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labor dispute actions or any socially irresponsible actions, duty of confidentiality and the obligation to give undivided attention to duty.

The National Public Service Ethics Law is actually deeply connected to such duties of public servants.

Usually the term public service ethics is used in a broad sense referring to the general “behavior and attitude called for by a public servant.” However, the Ethics Law is positioned partly as a guideline that provides the minimum standards of the service rules that shall be followed by the officials. This is because its primary purpose is to prevent cozy ties between public servants and business entities by regulating donations and wining and dining by interested parties.

The underlying reason for this positioning is that when this law was enacted, there was a lot of discussion as to whether it was appropriate to create a law to regulate “ethics,” whose values are tied to emotions. There were concerns that such law could infringe the freedom of thought and conscience protected by the constitution. In addition, the primary focus of the law was to prevent bribery and other misconduct.

C. Background to the Enactment of the Ethics Law

The administration in the mid-90s was plagued by scandals by high government officials. One of the most scandalous cases was the arrest of a bureaucrat of the then Ministry of Health and Welfare on bribery charges. He was accused for accepting monetary compensation from the head of a social welfare corporation in exchange for favorable arrangements with regard to the grant of subsidy. A few other senior officials also received disciplinary punishment for repeatedly being treated in exchange for favors.

This scandal prompted the Administrative Vice-Ministers’ Conference in 1996 to reach an agreement to formulate the code of ethics for public officials and have each ministry and government office draw it up as an order or an internal rule.

However, shortly after this incident, another case of serious misconduct occurred in 1998. This time it was the financial scandal involving the Ministry of Finance. The head of the financial inspection department and others were arrested on charges of receiving unlawful corporate entertainment in exchange for favors such as informing of the inspection dates beforehand. More than 100 public officials were subject to punishment for receiving lavish wining and dining from financial institutions, etc.

The repeated scandals made it clear that it was not rational to have confidence in the self-cleansing mechanism of the bureaucrats. This triggered the movement to legally stipulate the code of ethics of public servants. The National Public Service Ethics Law was established on August 13, 1999 and was put into effect in April 2000. This law is distinctive in the sense that it is lawmaker-initiated legislation and that it won a unanimous vote among all political parties.

The development of the Ethics Law has involved such a scandalous and dishonorable course for government employees. We as public servants should always bear that in mind and continue to have a sense of crisis.

D. Framework of the System of Ethics of Public Servants

Within the Ethics Law and Ethics Regulation, there is the Code of Ethical Conduct, which stipulates the standards for proper behavior of public servants. There are two pillars that provide the basis for more specific guidelines: “Rules of Conduct” and “Rules of Reporting.”

The Ethics Board has been set up to implement such rules. Whoever is in the position equivalent to that of the administrative vice-minister assumes the role of Ethics Officer in each ministry and government office.

The Ethics Board is a collegial body consisting of four members including the President. The members either come from a legal, financial or academic circle or have worked in a labor organization. Within its organization, the Ethics Board has a Secretariat, which currently consists of 14 staff members.

The National Public Service Ethics Board has various authorities pertaining to the maintenance of ethics among national public service officials. The authorities and responsibilities include:

- Comprehensive planning and coordination of training programs for maintaining ethics of public officials; and
- Investigation of cases in violation of the Ethics Law, instructions on investigations in disciplinary proceedings and approval of disciplinary measures.

E. Code of Ethical Conduct

The Code of Ethical Conduct provides the guidelines for public servants to behave in an ethical manner.

The code is comprised of five points: (a) public servants shall remember that they are servants of all citizens and always engage in their duties with fairness; (b) public servants shall not abuse their duties and authorities for personal gain; (c) public servants shall not take any actions resulting in public suspicion or distrust; (d) public servants shall exert their utmost efforts in performing their duties; and (e) public servants shall always behave while bearing in mind that their actions, even while off duty, may influence the public trust.

F. Rules of Conduct

“Rules of Conduct” has two parts: “prohibited actions involving an interested party” and “other prohibited actions.”

Since the Ethics Law was formulated due to the scandals of public officials becoming too cozy with business entities with special interests, the actions prohibited in the regulations for ethics primarily apply to those considered inappropriate between public servants and interested parties.

Interested parties refer to parties that may directly benefit or be penalized through the public servants’ duties involving permission/authorization, on-site inspections and contracts.

To be specific, “prohibited actions involving an interested party” include the following:

- To receive gifts;
- To receive wining and dining; and
- To rent goods and receive services free of charge.

As an exception, “to receive widely distributed marketing materials” is not considered as a prohibited action.

“Other prohibited actions” include the following:

- To receive excessive wining and dining reasonably deemed inappropriate under socially accepted conventions; and
- To engage in an organized violating act such as section chief and other management-level staff letting the wrongdoings of his/her subordinate pass.

G. Rules of Reporting

The other pillar in the Ethics Law is the “Rules of Reporting.” There are three reporting systems:

- (a) reporting on the donations received from business entities and other parties;
- (b) reporting on the dealings in the stock market during the year; and
- (c) reporting on the income earned during the year.

All of these rules have been introduced in order to ensure the transparency regarding the officials’ contact with business entities and to check whether there was an act of receiving inappropriate donations or compensations from interested parties.

The Ethics Board reviews the copies of various reports submitted by the heads of each ministry and government office.

H. Investigations of Cases Suspected to be Violating the Ethics Law and Disciplinary Measures

Before the Ethics Law was in effect, the disciplinary measures were decided based on the discretion of each ministry and government office. There were many criticisms that the punishment was too light and that the public servants were extremely lenient on their fellow workers.

Therefore, the cases suspected to be in violation of the Ethics Law are thoroughly investigated and the subsequent disciplinary measures are strictly enforced.

To be more specific, the mechanism is set up so that the Ethics Board would be deeply involved in the process. For example, it is required to report the investigation results to the Ethics Board and to obtain the approval of the Board in determining the penalties.

I. Disciplinary Measures for Violating the Ethics Law

Any violations of the Ethics Law and Ethics Regulation are subject to disciplinary measures whose criteria are defined in the Rules of the National Personnel Authority (22-1).

III. EFFORTS TO ENFORCE THE RULES

Regulations similar to the Ethics Law exist outside of Japan. Then why is it that scandals and misconduct by public servants have shown a drastic decrease particularly in Japan?

The Ethics Board carries out various measures to enforce the existing rules.

A. Training and Educational Activities

More than a dozen of training workshops each year hosted by the Ethics Board are carried out in major cities all over Japan.

In addition, the Ethics Board places great emphasis on developing training materials, such as PowerPoint slides for explaining the system and DVDs for case studies, to fully support the ethics training workshops carried out by ministries and government offices. The DVDs for case studies in particular have received favorable reviews as specific cases are presented in an easy-to-understand dramatized form.

There are somewhere between 100,000 to 200,000 people a year who participate in the ethics training workshops held by ministries and government offices. This translates to one or two persons out of every three national public officials in regular government service receiving some sort of training pertaining to ethics every year.

In addition, the Ethics Board displays posters, distributes leaflets, organizes lectures and engages in various other activities particularly during the week between December 1 and 7, which is designated as Ethics Week to increase awareness of ethics among public servants.

Since emphasis is placed on the role of top officials, Ethics Officers are required to send out emails to all staff in their team to raise their consciousness towards ethics.

Furthermore, the Ethics Board actively engages in activities to educate those outside of the government by preparing a variety of brochures to improve the understanding of private businesses and other parties that deal with the public sector.

B. Responses after Misconduct Takes Place

It is not possible to undo what has already been done. Therefore, it is crucial to take steps to minimize the damage as much as possible after misconduct takes place.

If it takes too much time to determine the disciplinary measures, people may think that there is still something else that has not come to the surface. Also, if the punishment is too light, the organization's self-cleansing mechanism may be put to question.

On the basis of such facts, the Ethics Board strives to coordinate with ministries and government offices to promptly carry out investigations and strictly enforce disciplinary

measures.

C. Enhancing and Reinforcing the System to Maintain Ethics

One of the projects that the Ethics Board is currently focusing on is the establishment of an internal reporting system. Reports from the inside enable early detection and make it possible to take preemptive measures against suspicious cases, contributing to the prevention of misconduct. It is important to change the workers' mindset so they realize that reporting misconduct is vital for the sake of the organization and that it is their obligation to do so.

It is also essential to make sure that whoever informs of the misconduct does not suffer any consequences. The informer may experience inconvenience by just revealing his or her name, let alone end up feeling awkward in the organization. It is necessary to be considerate of the informer by keeping the identity unknown after the first contact if the name was revealed and also being open to anonymous reports.

Currently, all ministries and government offices have set up contacts for internal reporting. The issue at hand will be how to fully make use of the system so all workers do not feel hesitant to utilize it when needed.

IV. CURRENT ISSUES

Every year the Ethics Board conducts a questionnaire survey that targets the general public as well as public servants to examine the current state of ethics among public officials.

The results show that the public at large tends to be most critical of the ethical standards of national public servants while the public servants themselves are the least critical.

This demonstrates the fact that the consciousness level of public servants is not at the level that fulfills the standards required by the citizens, which is quite problematic.

V. FUTURE AGENDA

It has been over 10 years since the Ethics Law was put into effect. It can be said that the rules specified in the law to be followed by national public servants are becoming widely known and fairly well-established.

However, it is undeniable that there is a large discrepancy between the situation perceived by public servants and the reality seen through the eyes of the general public. Therefore, in order to address this issue, the main focus of future efforts is to be placed on the following three areas in the next 10 years.

A. Developing the Ethical Mindset of Public Servants

Merely providing the knowledge is not going to be sufficient from now on. It is becoming more and more important to help public servants develop their ethical mindset to one that encompasses the behavior, attitude and work ethics that are more appropriate for someone serving the public.

B. Constructing an Ethical Climate in the Organization

It is necessary to further enhance and reinforce the system to maintain ethics by promoting the use of the reporting system, building an operation control that inhibits misconduct and setting up an investigation system for when misconduct occurs.

C. Enforcing Strict Measures against Ethics Law Violation

It is essential to analyze the motive and cause of violating the Ethics Law in order to take proper measures to prevent the same thing from happening.

The Ethics Board will continue to actively address these issues to achieve the objective of the Ethics Law of securing the citizens' confidence in public servants.

The Ethics Board will work with other organizations to the utmost of its ability in further increasing the ethical standards of the Asia and Pacific region.