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# LABOR AND EMPLOYMENT LAW BULLETIN (NO. 16)

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## Unfair Labor Practices



Corresponding to the rights granted by the Constitution of Japan to workers, the Labor Union Act (***Roudou-Kumiai-Hou***) prohibits employers from engaging in the following activities, which constitute "Unfair Labor Practices" (Article 7):

- discharging or mistreating employees due to the fact that they are members of a labor union, that they have attempted to join a labor union or to unionize or that they have performed legitimate union activities (Item (1));
- continuing to employ employees only when they do not join a labor union or when they withdraw from a labor union (Item (1));
- refusing to have a collective bargaining session without any justifiable reason (Item (2));
- dominating or interfering with the formation or administration of a labor union (Item (3));
- assisting a labor union in paying costs and expenses necessary for the administration of a labor union (Item (3)); or
- discharging or mistreating employees due to the fact that they have filed a motion for remedies in connection with unfair labor practices (Item (4)).

If an employer infringes any of the above prohibitions, the labor union affected by such infringement is entitled to file a motion with the Regional Labor Relations Committee (***Tihou-Roudou-Iinkai***) seeking administrative remedies against the conduct constituting such infringement. A review by the Regional Labor Relations Committee is very similar to a court trial for a lawsuit (Article 27, Paragraphs I and III of the LUA), which unfortunately means that it is a time-consuming and onerous procedure. After careful consideration, the Regional Labor Relations Committee renders an administrative order for remedies if it finds that the employer has engaged in Unfair Labor Practices (Article 27, Paragraph IV of the LUA). If the Regional Labor Relations Committee finds that the employer has not engaged in Unfair Labor Practices, then it renders an administrative order denying the allegation.

When a party to the case is unwilling to accept the administrative order of the Regional Labor Relations Committee, that party is allowed to appeal the case from the Regional Labor Relations Committee to the Central Labor Relations Committee (***Tyuuou-Roudou-Iinkai***).

憲法上定められている労働三権を実現すべく、労働組合法は、不当労働行為と呼ばれる一定の行為類型（不利益取扱、団体交渉拒否、支配介入など）を定めるとともに、これらを会社がおこなうことを禁止しました。会社がこれらの行為を行なうときは、都道府県地方労働委員会に救済申立がなされえます。都道府県地方労働委員会においては、裁判と似たような手続を経て、救済命令（申立に理由があるとき）または棄却命令（申立に理由がないとき）が出されることがあります。この命令に不服な当事者は中央労働委員会（事実上、上級官庁の権限を持ちます）に再審査請求をすることが出来ます。

Should you wish to receive further information as to the above-mentioned, and/or wish to consult as to whether your company is in compliance with labor/employment law, please contact Hideki Thurgood Kano (e-mail: hidekithurgood.kano@andersonmori.com, tel: 81-3-6888-1061).