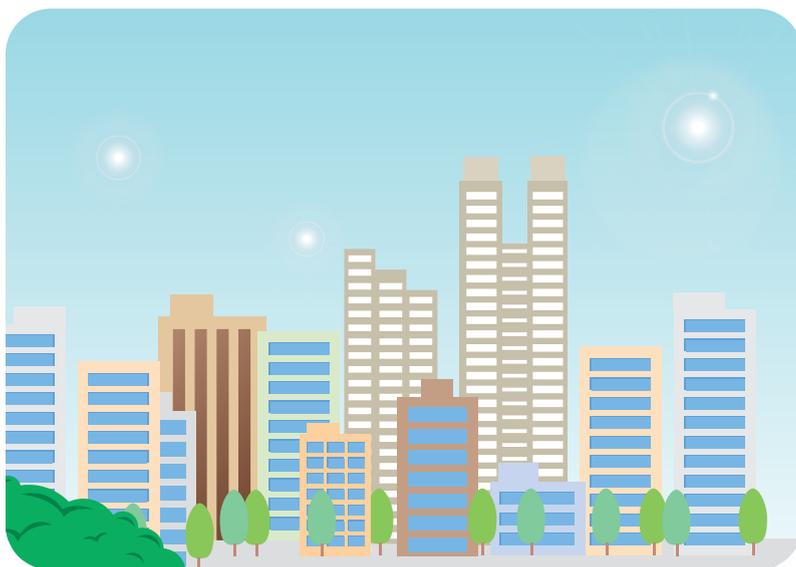


GUIDE TO THE LABOR RELATIONS COMMISSIONS



**Secretariat to Tokyo Metropolitan
Government Labor Relations Commission**

INTRODUCTION

This booklet explains the following about Labor Relations Commissions, particularly in terms of the Tokyo Metropolitan Government Labor Relations Commission:

1. What is the 'organizational structure' of Labor Relations Commissions?
2. What 'functions' do Labor Relations Commissions perform?
3. How should Labor Relations Commissions be utilized?

We have tried, as far as possible, to provide a simple and systematic explanation for the benefit of employers and employees who are not acquainted with Labor Relations Commissions.

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(Note) Reference forms for documents to submit can be downloaded from the Tokyo Metropolitan Government Labor Relations Commission homepage (<http://www.toroui.metro.tokyo.jp/>)

I. MECHANISM OF THE LABOR RELATIONS COMMISSION SYSTEM

1. Birth of Labor Relations Commissions

When a dispute arises between an employer and employees, it is desirable that the parties should settle it in a voluntary way. Because of a frequent clash of their interests and the difficulty of always keeping their standing on equal footing in industrial relation, however, it is not easy to settle a dispute only by law or principle.

In such a situation, steps are required to help settlement and produce a better result without leaving hard feeling between the parties, by soliciting views or judgments from impartial third persons.

We also need an institution which can judge whether an employer has committed unfair labor practice or violated the workers' right to organize, and if so, assist the workers easily and rapidly. The Labor Relations Commission System was established under the Trade Union Law enforced in March 1946 to fulfil such a need.

2. Types of Labor Relations Commissions

Labor Relations Commissions are divided into two categories: the Central Labor Relations Commission and Prefectural Labor Relations Commissions.

Prefectural Labor Relations Commissions in each prefecture handle industrial disputes, unfair labor practice cases, and the like in their jurisdictions.

The Central Labor Relations Commission deals with cases related to two or more prefectures, important national issues, reviews of Prefectural Labor Relations Commission's decisions on unfair labor

practice, and the like.

3. Nature of the Labor Relations Commission

Unlike other general administrative organs, the Labor Relations Commission operates independently of, and not under the command or supervision of, the Minister or Prefectural Governor. Although the appointment of members and the placement of the secretariat is prepared by the national or prefectural governments, all the duties are entrusted to the Commission itself. Therefore, each Labor Relations Commission can conduct its duties in a fair manner without any outside restrictions.

4. Composition of the Labor Relations Commission

A Labor Relations Commission consists of three parties: members who represent public interests (public members), those who represent the workers (labor members) and those who represent management (employer members). Our Labor Relations Commission consists of 39 members in total, 13 members from each group. Members are not full-time, and their term of office is two years.

Public members, appointed among scholars and those of practical experience, are regarded as impartial. Labor and employer members, not simply those who represent their interests, must correctly represent each situation to the Labor Relations Commission and contribute to the establishment of peaceful industrial relation in a cooperative way.

The Governor of the region appoints labor members on the recommendation of the trade unions, employer members on the recommendation of employers' organizations, and public members with the consent of both labor and employer members.

The Chairperson and the Vice Chairperson are elected by the Commission from among public members.

5. Power of the Labor Relations Commission

With the aim of protecting workers' fundamental rights guaranteed by the Constitution of Japan (rights of organization, collective bargaining and strike) and, at the same time, helping stabilize industrial relation, Labor Relations Commissions have the power of settling industrial disputes reasonably and flexibly.

This power can be divided into two.

One is the adjustment power of leading a dispute to a settlement between labor and management through conciliation, mediation or arbitration, and another is the examination power of judging unfair labor practice and trade union qualifications in particular.

6. Labor Relations Commission meetings

Meetings can be classified into two: general meetings attended by all members, and public members meeting attended only by public members.

General meetings include public, labor and employer members, who decide fairly and democratically on important items concerning the policy of managerial affairs of the Labor Relations Commission, the start of mediation or arbitration, the appointment or dismissal of a candidate for conciliator, and the like.

In public members' meetings, members decide what orders should be issued against unfair labor practice, determine whether a trade union has the required qualifications to be registered as a corporation, discuss the sphere of nonunion members of local public enterprises and specified local incorporated administrative agencies (hereinafter, local public enterprises, etc.), and the like.

The Commission usually holds general and public members meetings on first and third Tuesdays of every month.

7. Secretariat

A Labor Relations Commission has a secretariat to assist its members. The staff are appointed by the Prefectural Governor, subject to the consent of the Chairperson.

The Commission's secretariat consists of two sections under the Director. Their duties are as follows:

General Affairs Section:

- Appointment or dismissal of conciliators;
- Holding of general and public members meetings;
- Production of documents such as an annual report;
- Personnel and budgetary affairs and other general affairs.

Examination and Adjustment Sections:

Adjustment Section:

- Conciliation, mediation or arbitration in labor disputes;
- Receiving advance notice of act of dispute from public service enterprises;
- Receiving notification of act of dispute in progress;
- Receiving and/or counselling for: requests for conciliation, mediation or arbitration; file a complaint regarding unfair labor practices; requests to examine trade union qualifications.

Examination Section:

- Examination of unfair labor practice;
- Examination of trade union qualifications;
- Decision on and notification of the sphere of nonunion members of a local public enterprise;
- Use of the regional binding power of a labor agreement;
- Request for punishment for violation of advance notice of strike.

II. DUTIES OF THE LABOR RELATIONS COMMISSION

Main duties of the Labor Relations Commission are **adjustment of labor disputes, examination of unfair labor practices and examination of trade union qualifications.**

1. Adjustment of labor disputes

(1) Voluntary settlement between employer and employees and adjustment by the Labor Relations Commission

It is desirable that any dispute should be voluntarily settled by the parties concerned. The Labor Relations Adjustment Law regards such voluntary settlement as a principle: 'when a labor dispute arises, the parties concerned have to make efforts to voluntarily settle it in good faith.

Although it is best to settle a dispute without the help of third persons, voluntary settlement may become difficult or impossible in some cases. In such cases, it is necessary that impartial third persons should intervene between labor and management and play the role of reaching a settlement by appropriately adjusting the relationship between the two.

For that, the Labor Relations Adjustment Law prescribes to the Labor Relations Commission how to adjust differences.

Adjustment by the Labor Relations Commission is a procedure to reach a settlement by obtaining each party's concession, and principally not by force.

If necessary, the Labor Relations Commission may conduct compulsory adjustment by virtue of its authority. However, it is only in exceptional cases that the Labor Relations Commission will intervene in a dispute from the standpoint of public interest.

(2) Types of adjustment performed by the Labor Relations Commission

The parties concerned can choose one of three types of adjustment by the Labor Relations Commission: **Conciliation, mediation or arbitration.**

Differences between the three types are as follows:

	Conciliation	Mediation	Arbitration
Persons in charge	Conciliators: One or more conciliators	Mediation Committee: Public members; equal number of labor and employer members	Arbitration Committee: three public members Labor and employer members can express their opinion
Starting conditions	<ol style="list-style-type: none"> 1. Request by either employer or trade union/labor organization 2. Request by both employer and trade union/labor organization 3. By virtue of the authority 	<ol style="list-style-type: none"> 1. Request by both employer and trade union/labor organization 2. Request by either employer or trade union/labor organization <p>(In case where the collective agreement prescribes so, and for public service enterprises)</p> <ol style="list-style-type: none"> 3. By virtue of the authority 4. Request by the Minister of Health, Labor and Welfare, or Prefectural Governor 	<ol style="list-style-type: none"> 1. Request by both employer and trade union/labor organization 2. Request by either employer or trade union/labor organization <p>(In case where the collective agreement prescribes so)</p>
Presentation of a settlement proposal	A proposal may be presented	In principle, a proposal is presented	In principle, a proposal is presented
Acceptance of a settlement proposal	Acceptance is voluntary	Acceptance is voluntary	Binding on both parties, with the same force as a labor agreement

It is prohibited, as unfair labor practice, by Paragraph 4 to Section 7 of the Trade Union Law, for an employer discharge or subject to unfair treatment, an employee for the reason the latter has participated in such a procedure of the Labor Relations Commission.

(3) Conciliation

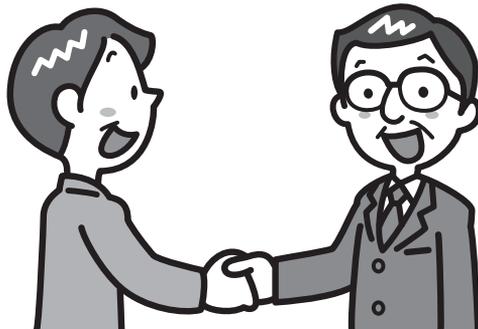
1. Meaning

Conciliation is a process through which one or more conciliators make efforts to help settle a dispute, ascertaining the parties' (employer and trade union/labor organization) claims, clarifying the differences between the two, arranging talks, adjusting both parties' claims, or showing a proposal.

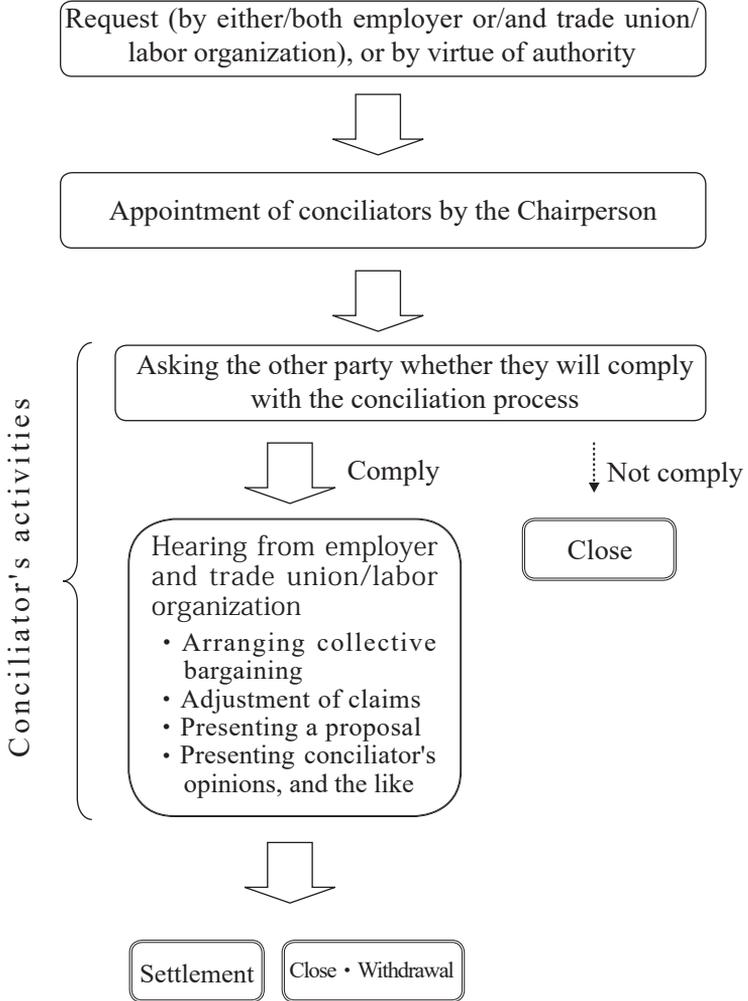
2. Candidates for conciliators

A person in charge of conciliation is called conciliator.

The Labor Relations Commission requests, scholars and persons of experience who can help settle labor disputes to act as conciliators. The Tokyo Metropolitan Government Labor Relations Commission has requested public, labor and employer members, former Commission members, staff persons of the secretariat, the director of the Labor Consultation Center, and the like. And a list of potential conciliators is prepared by the secretariat.



3. Conciliation procedure



a. Commencement of conciliation

Request for conciliation

The conciliation process requires a request for conciliation made by either a trade union or labor organization or an employer, or both. (Individual workers cannot make a request for conciliation. This rule also applies to mediation and arbitration.) In the case where a local public enterprise or other organization makes a request for conciliation of a labor dispute, the same procedure is required.

When a case is found to be inappropriate for conciliation, for example, because the Labor Relations Commission considers the dispute can be voluntarily settled, it may decide not to start the conciliation process even though a request for conciliation is made. (This rule also applies to mediation and arbitration.)

If the case of such a situation, you are invited to ask the secretariat before making a request.

Appointment of conciliators

After a request has been made by the parties, the Chairperson appoints conciliators from the candidates.

According to the nature of the dispute, the Tokyo Local Labor Relations Commission appoints a conciliator(s) from either 1) One of each tripartite members (public, labor and employer members), 2) Independent public member, or 3) Two members of the Secretariat .

b. Conciliation process

Unlike the mediation or arbitration processes, conciliators can proceed with the conciliation process flexibly. In general, the following process occurs.

Ascertaining the intention of the other party

In case where either of the parties has made a request for conciliation, conciliators ask the other party to comply with the conciliation process, and ascertain its intention.

When the other party refuses to comply with the conciliation process, the conciliation process cannot take place. The party which made the request for conciliation has to withdraw it, or the conciliation process is closed.

When the collective agreement prescribes that conciliation is necessary in order to settle a labor dispute, or both parties have requested conciliation, the conciliation process can start immediately.

Hearing

Conciliators hear the case from both parties, ascertain the key points of both claims, and find and clarify the differences in the dispute.

Arranging collective bargaining

When conciliators consider that some problems to be solved in the conciliation process have been insufficiently examined through collective bargaining, and find it necessary to continue collective bargaining, they may recommend the parties concerned to continue same. If necessary, conciliators may be present at collective bargaining.

Adjustment of claims

Conciliators adjust both parties' views on problems to be solved through the conciliation process, in broader aspects and from an impartial standpoint, and recommend them to make concessions so that the dispute may be settled.

When both parties reach agreement, a written agreement is prepared in the presence of conciliators.

Presenting a proposal

If necessary, conciliators present a proposal and recommend both

parties to accept it to settle the dispute.

Needless to say, if one party accepts the plan but the other does not, the conciliation process cannot succeed.

In most cases, however, the parties conclude an agreement and settle the dispute according to the spirit of the proposal because it has the contents most appropriate to solve the problem and is presented at the appropriate time.

Close of conciliation and withdrawal of request

When conciliators cannot expect to settle a dispute through the above-mentioned procedures because of a significant difference between the parties' claims, they may close the conciliation process. Even if conciliation is closed, the parties can request conciliation again. There are cases where an agreement has been reached in such a way.

The party who made the request may decide to withdraw it in certain circumstances.

c. Compulsory conciliation by virtue of the authority

Even if the parties make no request, conciliation can be started by virtue of the authority of the Chairperson. This is called compulsory conciliation conducted by virtue of the authority.

In the case of such labor disputes as in hospitals or private railway companies which may cause inconvenience or harm to human life or society, compulsory conciliation may be conducted.

The compulsory conciliation procedure is the same as that of conciliation by request from the parties.

(4) Mediation

1. Meaning

Mediation is a process through which the Mediation Committee makes efforts to help settle a dispute, preparing a mediation plan after having heard the parties' views, and recommending them to accept it.

2. Mediation procedure

a. Commencement of mediation

Request for mediation

The mediation process starts in the following cases:

1. When both parties make a request for mediation;
 2. When either of the parties makes a request for mediation. In the latter case, it is required that either the collective agreement prescribes that mediation should be taken to settle disputes, or a public service enterprise is concerned. (Besides those cases, the mediation process may be started by the virtue of the authority of the Labor Relations Commission, which will be mentioned later.)
- Even after the mediation process has started, all or part of the matters to be mediated can be withdrawn by the party who made the request.

Mediation Committee

The mediation process is conducted by the Mediation Committee composed of public, labor and employer members. The Chairperson appoints Mediation Committee members and staff persons in charge.

Although the number of Mediation Committee members is not fixed, that of labor members must be equal to that of employer members.

The Mediation Committee elects a Chairperson from the public members.

The Chairperson convenes meetings of the Mediation Committee. A decision is made by majority in meetings of the Mediation

Committee.

b. Mediation process

Hearing

The Mediation Committee issues calls to both parties and hears their views, asking for reference materials. If necessary, it may also issue calls to other relevant witnesses to hear their views.

Making a mediation plan

The Mediation Committee makes a mediation plan after hearing the parties' claims.

A mediation plan is decided on by the majority of its members present.

Depending on the circumstances, the Mediation Committee may close the mediation process, giving reasons.

Presenting a mediation plan

After making a mediation plan, the Mediation Committee presents it to the parties and recommends them to accept it.

Neither party is under obligation to accept the mediation plan. However, it is important for the parties to make efforts to settle the dispute by examining the plan thoroughly.

If the mediation plan is accepted by both parties, the dispute is settled. If either party refuses to accept it, the mediation process cannot succeed.

After a mediation plan has been accepted

When the parties disagree in view on how to interpret or implement the plan after having accepted it, either or both of the parties can request the Mediation Committee to present its view.

In such cases, it is provided that the Mediation Committee should present its view within 15 days of the day when the request is made. The parties concerned are not allowed to start a dispute over interpretation or implement of the mediation plan before the Mediation Committee presents its view or until the period of 15 days ends.

c. Compulsory mediation by virtue of the authority

In addition to mediation initiated by request, it may also be commenced by virtue of the authority of the Labor Relations Commission or a request from the Prefectural Governor.

1. When either of the parties makes a request for mediation of a labor dispute of a local public enterprise, and the Labor Relations Commission decides that mediation should be conducted;

2. When the Labor Relations Commission decides that mediation should be conducted, by virtue of its authority, for a labor dispute of a public service enterprise or local public enterprise;

3. When the prefectural Governor makes a request for mediation for the following cases:

(1) A case concerning a public service enterprise;

(2) A case which has significant influence on public interests due to its size or the special nature of an enterprise.

Even in such cases, the mediation procedure is the same as that of mediation by request from the parties.

(5) Arbitration

1. Meaning

Arbitration is a process which seeks to settle a labor dispute according to a decision (arbitration award) made by the Arbitration Committee to which both parties, employer and employees, have commissioned to settle it.

2. Arbitration procedure

a. Commencement of arbitration

Request for arbitration

The arbitration process starts when:

1. both parties make a request for arbitration;
2. either party makes a request for arbitration.

In the latter case, it is required that the collective agreement prescribes that a request for arbitration should be made.

(Besides those cases, arbitration may be started by the virtue of the authority of the Labor Relations Commission, which will be described later.)

Even after the arbitration process has started, all or part of the matters to be arbitrated can be withdrawn by the party who made the request.

Arbitration Committee

The arbitration process is conducted by the Arbitration Committee, consisting of three or more public members.

The Chairperson nominates Arbitration Committee members from public members who have been approved by both parties on the basis of mutual agreement. If the parties choose no Arbitration Committee members or do not reach agreement, the Chairperson appoints them from public members after having heard their opinions.

Labor and employer members appointed by the parties can also express their views before the Arbitration Committee.

The Chairperson appoints not only Arbitration Committee members

but also staff persons in charge.

The Arbitration Committee Chairperson is elected by the Arbitration Committee from its members.

The Chairperson convenes meetings of the Arbitration Committee which cannot be held without two or more members present. Decisions are made by majority.

b. Arbitration process

Hearing

The Arbitration Committee issues calls to the parties and relevant witnesses, hears their views and asks for necessary reference materials, to inquire into the facts.

Then, the Arbitration Committee tries to adjust both claims according to the facts with the assistance of labor and employer members.

Making arbitration awards

After that, the Arbitration Committee prepares an arbitration award. Depending on the circumstances, the Arbitration Committee may close the arbitration process, giving reasons.

Legal standing of arbitration awards

The Arbitration Committee issues an arbitration award to the parties.

An arbitration award has the full force and effect of a collective agreement from the effective date shown, and binds the parties.

The parties cannot make a complaint or objection against an arbitration award: the dispute is settled by the arbitration award.

c. Compulsory arbitration by virtue of the authority

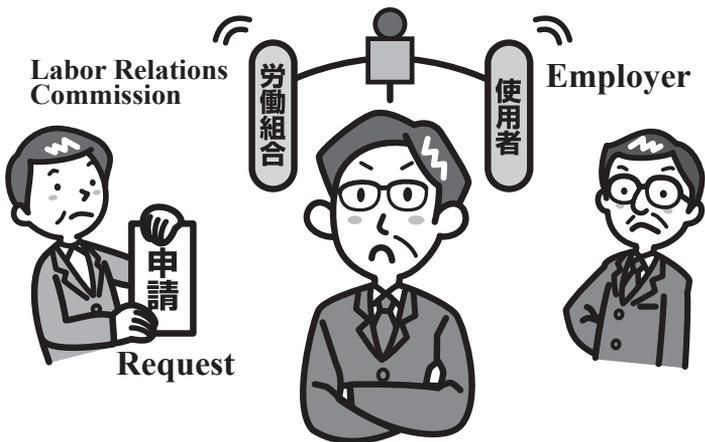
In addition to arbitration started by request, in the case of a local public enterprise, etc., arbitration may be commenced by virtue of the authority of the Labor Relations Commission or a request by the Prefectural Governor in the following cases.

1. When the Labor Relations Commission decides that arbitration should be conducted for a case in the process of conciliation or

mediation;

2. When a dispute is unsettled two months after the commencement of the conciliation or mediation process by the Labor Relations Commission, and either of the parties makes a request for arbitration;

3. When the Prefectural Governor makes a request for arbitration.



3. Examination of unfair labor practices

(1) Outline of unfair labor practice

1. What is unfair labor practice?

The Constitution of Japan guarantees workers' rights to organize, bargain and act collectively in order that workers can be on an equal footing with their employers. These are known as the three rights of workers.

To guarantee workers' three rights in a practical way, the Trade Union Law prohibits employers from the following, **unfair labor practice** against workers or trade unions (Section 7 of the Trade Union Law).

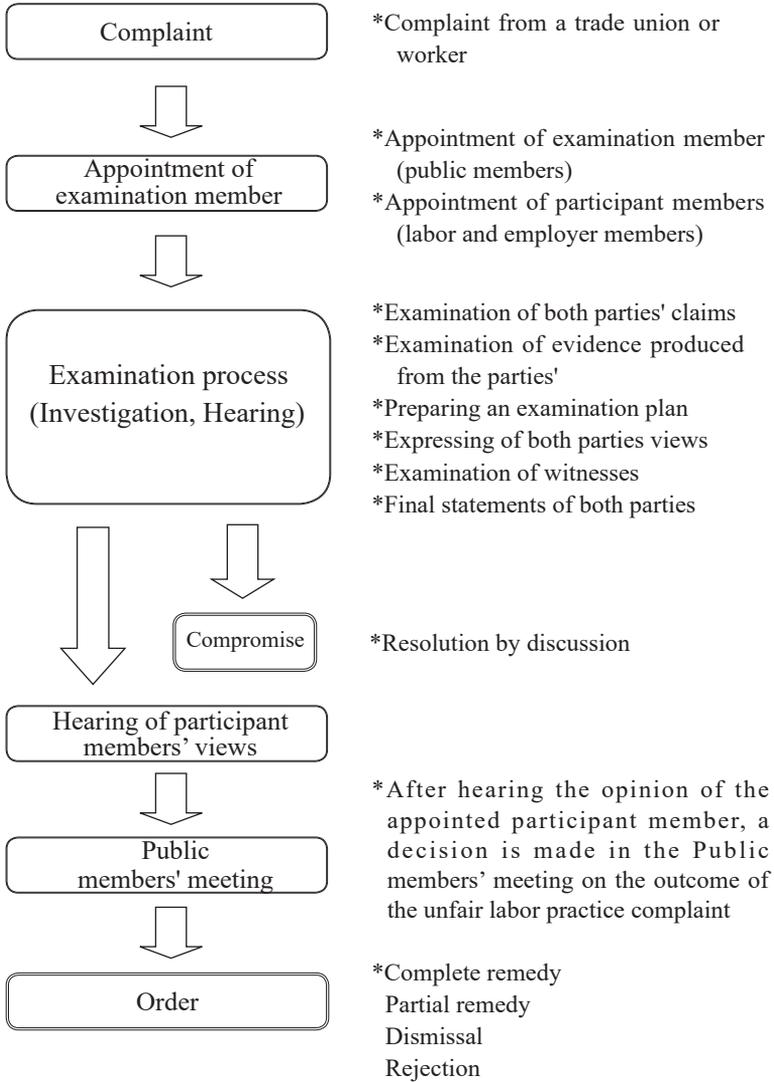
2. Orders of the Labor Relations Commission

A trade union or worker can file a complaint to the Labor Relations Commission when he/she believes the employer is doing or has done unfair labor practices. If the Labor Relations Commission confirms the existence of unfair labor practice, it takes appropriate action such as by ordering the employer to reinstate the dismissed worker to his or her former position, or to stop the employer controlling or interfering with trade unions.

Category	The worker (Trade union)...	The employer...	Number
Unfair treatment	<ol style="list-style-type: none"> 1. Is a member of a trade union 2. Joined a trade union or tried to organize a trade union 3. Acted lawfully for a trade union 	<p>For the reasons on the left</p> <ol style="list-style-type: none"> 1. Dismissed the worker 2. Treated the worker unfairly 	1
Yellow-dog contract	<ol style="list-style-type: none"> 1. May not join a trade union 2. Must withdraw from a trade union 	Makes an employment contract with a worker under the conditions on the left.	
Refusal of collective bargaining	Makes a request for collective bargaining with the representatives of workers	Refuses, without proper reasons, to do the requested action on the left	2
Control and interference	<ol style="list-style-type: none"> 1. Forms a trade union 2. Operates a trade union 	Controls or interferes with the actions on the left	3
Financial aid	Incurs expenses for operating a trade union	Gives financial aid for the action on the left	
Unfair treatment to a worker for the reason of his or her having participated in a process of the Labor Relations Commission	<ol style="list-style-type: none"> 1. Filed a complaint with the Labor Relations Commission against unfair labor practice 2. Requested a re-examination of the order for unfair labor practice 3. 1, 2, and presented evidence or his or her views when adjusting a labor dispute 	<p>For the reasons on the left,</p> <ol style="list-style-type: none"> 1. Dismissed the worker 2. Treated the worker unfairly 	4

(Note) Number refers to each numbered section in Article 7 of the Labor Union Law.

(2) Unfair labor practice examination procedure



1. Commencement of examination

a. Filing complaints

The examination process for unfair labor practice starts after a complaint is filed regarding unfair labor practices.

Trade unions and individual workers who have suffered from unfair labor practices file a complaint. Such a complaint has to be made within one year from the time when unfair labor practice was being committed.

A complaint is principally made in writing, but also can be made orally.

When a trade union files a complaint, it must submit documentation certifying that this satisfies the provisions of the Trade Union Law. Please refer to 2 (3) in Section III “How to make use of the Labor Relations Commission” (page 37) for information on what documents to submit.

The party who filed the complaint can withdraw all or part of the complaint at any time before the order is issued.

b. Appointment of an examination member

The Chairperson appoints from the public members an examination member who is in charge of the examination in unfair labor practice cases.

The Chairperson also appoints staff.

c. Appointment of participant members

One worker and one management participant members, selected from the labor and employer members respectively, are appointed to take charge of the examination of unfair labor practice cases.

2. Examination

The examination process is divided into two stages: investigation and hearing.

Investigation is conducted to clarify the point in dispute from both parties' claims, while hearing is conducted to decide whether the alleged unfair labor practices actually took place.

Both parties can appoint an agency who stands in the place of themselves and an assistant who may help them, during investigation or hearing. In such a case, a written request is required.

In most cases, a lawyer is appointed as an agency, while a higher-class union officer or a company executive in charge of labor management or section manager who is familiar with unfair labor practice cases is appointed as an assistant.

a. Investigation

Issuing a complaint

When a complaint has been filed, a copy is handed (issued) to the employer, who is then required to submit an answer. In this case, the employer is obliged to submit an answer within 10 days of receiving a copy of the complaint.

Examination of claims and evidence

The examination member asks the parties to attend an investigation held on a fixed day.

At the investigation, the examination member hears both parties' explanations of their complaint or answer, and examines each claim.

Furthermore, the examination member also asks the parties to furnish evidence and witnesses to support their claims. This evidence refers to the documents and witnesses presented.

Then, prior to the start of the hearing, the appointed members (public, labor and employer members) listen to the views of the parties, and prepare and issue to the parties an examination plan listing the main points of dispute, schedule for the hearing, intended period for issuing an order, and other matters.

After having examined both parties' claims and evidence in investigation, the staff examines the content of the investigation and prepares an investigation report.

The parties and persons concerned may read the investigation

report.

b. Hearing

Commencement of hearing

After the investigation has been finished, the hearing begins.

The hearing, like oral proceedings (examining a witness) before court, is conducted in the presence of both parties.

In principle, the hearing is conducted in public to ensure fairness.

The parties are informed in advance of the period and location of the hearing. Once the period of hearing is fixed, a proposal to change the period cannot be accepted provided there is no valid reason.

Since hearing can still be conducted when one party refuses to be attend, non-presence may produce an unfavorable result for that party.

Statement; examination of witnesses

In the hearing, the parties, agencies and assistants can make a statement and examine the parties and witnesses (hereinafter, witnesses, etc.) with approval of the examination member.

In the case of examining a witness, etc., the party which has requested the examination examines the witness first (main examination), and then the other party cross-examines him or her. The examination member and participant members can examine a witness as occasion demands.

It is important to examine a witness briefly and only about key points. If one touches upon unrelated matters or views, the hearing may be prolonged because a point in dispute becomes unclear.

Also, witnesses must take an oath as if before a court, and they have to state the facts as they are according to their conscience.

Staff members make a hearing report of the contents of the hearing. The contents of the examinations of witnesses are recorded in shorthand, and included in the stenographic record of the hearing.

The parties and persons concerned each receive for free a copy of

the stenographic record of the hearing.

Final statement

After examining all the witnesses, the examination member allows the parties to make a final statement before closing the hearing.

The final statement, where each party presents its claims and facts on points at issue, considering the whole examination process, is generally made in writing.

3. Decision regarding an order

a. Meeting of public members

After hearing, a meeting of public members discusses whether the alleged act of an employer should be judged unfair labor practice or not, and decides on an order. Such a meeting is held with closed doors.

Before a discussion, public members are required to hear from the labor and employer members who have participated in the hearing.

A meeting of public members decides:

1. An order which supports the whole of the complaint, when it judges the alleged act of the employer unfair labor practice;
2. An order which supports part of the complaint, when it judges part of the alleged act of the employer to be unfair labor practice;
3. An order which rejects the complaint, when it judges the alleged act of the employer not to be unfair labor practice;
4. A dismissal of the complaint when it has not been made within the effective period, or when it is clear that the alleged act of the employer does not fall under unfair labor practice.

b. Issue of an order

An order decided by a meeting of public members is announced in writing.

The following items are listed in the order.

- 1 Gist of the order
2. Parties concerned
3. Main text (Acknowledgement of all or part of the relief

requested for the complaint, or details on the method of execution. Also, the gist of dismissing the complaint.)

4. Reasons (Acknowledged facts and judgement, and legal grounds)

5. Date of judgement

6. Names of members

A copy thereof shall be served on both parties.

It is issued on a fixed day in the presence of both parties, or a copy is sent by mail with delivery certificate. In such a case, the day of delivery is regarded as the day of issue.

An order takes effect from the date of service.

c. In case where the parties are dissatisfied with an order

If dissatisfied with an order, a party can take the following measures:

Employer:

can apply for re-examination, within 15 days of the service of the order, to the Central Labor Relations Commission. It can bring the case to the district court, within 30 days of the service of the order, to ask it to rescind the order if it doesn't apply for re-examination.

Workers/unions:

can apply for re-examination, within 15 days of the service of the order, to the Central Labor Relations Commission. They can also bring the case to the district court, within 6 months of the service of the order, to ask it to rescind the order.

In the event that an employer goes to the district court, the latter may, according to a request by the Labor Relations Commission, order the former (employer) to follow the order issued by the Commission until a final and conclusive judgment is made (emergency order).

d. Establishment of an order

If there is no request for re-examination or appeal for withdrawal, the order is established.

If an employer does not follow such an established order, the former may be punished with a fine of ¥500,000 or less (in the case of a pretense order, an additional fine of ¥100,000 per day, after five days of noncompliance.)

4. Compromise

When remedy with unfair labor practice is requested, not all cases are ended in an order. Many cases are settled by compromise.

In some cases, a settlement by compromise can be more appropriate, in the nature of things, than by order, and the parties may wish to obtain acceptable conditions in a peaceful way through negotiations rather than a settlement by an order. In such a case, the examination member recommends the parties to make a compromise, and tries to bridge a gap between the parties' claims in cooperation with participant members. If the parties reach an agreement through negotiations, a compromise agreement is concluded and a case can be settled.

To promote such a compromise process, not only the examination member but also participant members respect employer and employees' positions sufficiently, and make efforts to settle a dispute so that industrial relation will continue to be healthy in future.

4. Examination of trade union qualifications

(1) In which case are trade union qualifications examined?

A trade union should be voluntarily organized and democratically operated by workers. Therefore, when forming a trade union it is not necessary to notify administrative agencies or other organizations.

In the following cases, however, the Labor Relations Commission is required to examine whether a trade union meets the requirements provided by the Trade Union Law or not. It is called an examination of trade union qualifications.

1. When a trade union files a complaint regarding unfair labor practices;
2. When a trade union seeks qualifications in order to register as a corporation;
3. When a trade union recommends a candidate for the labor member of the Labor Relations Commission;
4. When a trade union applies for approval for placement activities specified by the Employment Security Law.
5. When a trade union applies for a regional extension of a labor agreement.

(2) Examination criteria

A trade union qualifications are examined, according to the following criteria, in respect of two points: **whether it is a voluntary trade union** (Section 2 of the Trade Union Law); and **whether it has the rules necessary to be a democratic trade union** (Sub-Section 2 of Section 5 of the Trade Union Law).

▽ Trade union's requirements provided by Section 2 of the Trade Union Law

(Indispensable requirements:)

1. To be an organization primarily composed of workers;
2. To be formed of workers' own free will;
3. To aim at maintaining and improving labor conditions and raising workers' position in principle.

(Unacceptable conditions:)

4. To contain a person representing the interests of the employer
5. To be given financial aid, by the employer, for the operation of the trade union;
6. To aim at carrying out mutual aid and welfare activities only;
7. To aim at conducting political or social activities in principle.

▽ Trade union term requirements provided by Sub-Section 2 of Section 5 of the Trade Union Law

1. Trade Union name;
2. Address of the main office
3. In the case of a unit trade union, its members must have the right to participate in all matters, and the right to be equally treated;
4. In all cases, no member can be deprived of his or her membership for reasons of race, religion, sex, family origin or social status;

5. In the case of a unit trade union, its officers have to be elected through a direct and secret vote by the members;

In the case of a federation or nationwide organization of trade unions, its officers must be elected through a direct and secret vote by the members of its affiliated unit trade union, or by representatives elected through a direct and secret vote by the members.

6. A general meeting has to be held once or more a year;
7. A financial report where all financial resources, purposes and amounts of expenditures, names of principal contributors, and the current financial situation are shown has to be published to the members once or more a year, together with a certificate which testifies the financial report is accurately made, and was prepared by a certified auditor appointed by the members;
8. Strikes must only be started on the condition that a strike proposal has gained a majority through a direct and secret vote by the members, or by representatives elected through a direct and secret vote by the members;
9. In the case of a unit trade union, rules can only be changed on condition that such a proposal has gained a majority of all the members through a direct and secret vote.

In the case of a federation or nationwide organization of trade union, rules can only be changed on condition that such a proposal has gained through a direct and secret vote, a majority of all the members of its affiliated unit trade union, or a majority of all

the representatives elected through a direct and secret vote by the members.

(3) Examination procedure

1. Commencement of examination

a. Application

The examination of trade union qualifications is started after a trade union has sent in an application and documentary evidence such as its rules.

b. Appointment of an examination member

The Chairperson selects an examination member from among the public members to be responsible for examination of trade union qualifications. At the same time, staff persons in charge are also appointed.

2. Examination of documentary evidence

The examination member examines whether each piece of documentary evidence meets the requirements provided by Section 2 and Sub-Section 2 of Section 5 of the Trade Union Law or not. Although the examination process is generally finished by examining documentary evidence the examination member may, if necessary, further inquire into the facts and require the trade union to present other documentary evidence.

3. Correction Recommendation

When the examination member finds part of union rules or other documents do not meet the requirements provided by the Trade Union Law, he or she recommends the union, after having discussed such a proposal in a meeting of public members, make a correction within given period. This is called a Recommendation for Correction.

If such a trade union that has been given a correction recommendation makes a correction as pointed out in a fixed period, it can meet the requirements provided by law.

4. Decision on qualifications

Having finished examination, a meeting of public members decides whether the trade union meets the requirements provided by the Trade Union Law or not.

After a decision on qualifications is made, a Written Decision of 'Qualified' or 'Disqualified' is prepared, and a copy is issued to the trade union. To a 'qualified' union, a certificate of qualifications may be issued in place of a copy of decision.

The following items are listed in the Written Decision and Certificate of Qualification.

▽Written Decision

1. Name of the trade union, and address of its main office
2. Gist of conformance of the trade union with the regulations of the Labor Union Law, or nonconformance and reasons thereof.
3. Date of the decision

▽Certificate of Qualification

1. Gist of conformance of the trade union with the regulations of the Labor Union Law
2. Name of the trade union
3. Address of the trade union's main office
4. Date of the decision
5. Date of issue of the Certificate

5. When a trade union is dissatisfied with a decision

When a trade union is dissatisfied with a decision, it can make an application for re-examination to the Central Labor Relations Commission.

An application for re-examination is required to be made within 15 days of the issue of a copy of decision on qualifications.

III. HOW TO MAKE USE OF THE LABOR RELATIONS COMMISSION

When making a request for adjustment in a dispute or a complaint regarding unfair labor practice, it is not necessary to pay expenses for the procedure.

The Trade Union Law prohibits the members and other staff of a Labor Relations Commission to leak out a secret of employers or employees which can be found out on their duties.

1. Counseling

Our Labor Relations Commission provides counsel for the following matters:

- Adjustment of disputes; industrial relations problem related to unfair labor practice;
- Procedure for requests;
- Procedure for a request for examination of trade union qualifications.

2. Procedure for a request or application

As explained in the Section II 'Duties of the Labor Relations Commission', a request or application is usually made in writing in Japanese.

Reference forms for documents to submit can be downloaded from the Tokyo Metropolitan Government Labor Relations Commission homepage (<http://www.toroui.metro.tokyo.jp/>)

Next, we will explain what should be mentioned, how many copies should be presented, and the like, for such a request or application.

(1) Request for conciliation, mediation or arbitration

When you request conciliation, mediation or arbitration, you are required to present copies of the request and 'the details of the case

so far.'

To prepare 'the details of the case so far,' you need to present briefly 'when, who did what' about the adjustment process and the like so that developments and points in dispute between labor and employer may be easily understood. If necessary, you may be invited to present copies of written demand or answer between labor and employer.

How to prepare 'the details of the case so far'

- In the case of a dispute related to wage increase or bonus payment:
 - When the demand was made; the amount requested;
 - When the answer was made; the amount granted;
 - When the collective bargaining was conducted; the outcome.
- In the case of a dispute related to a dismissal or transfer:
 - When the dismissal or reshuffle was made; why;
 - When the collective bargaining was made; the outcome.
- In the case of making a request for promoting collective bargaining:
 - When the demand was made; for what purpose the collective bargaining was conducted;
 - When the collective bargaining was made; the outcome;
 - When the collective bargaining stopped; why.

In addition to the above, for an act of dispute which is already in progress, please be sure to provide details of when it started and the events thus far.

You are required to present the following number of copies of a request (including attached papers).

Conciliation: 4 or 7 copies;

(Staff: 4 copies, Public members: 5 copies, Tripartite members (public, labor, employer): 7 copies)

Mediation: 7 copies;

Arbitration: 9 copies.

According to the number of the parties concerned, you may be required to increase the number of copies.

(2) Filing a complaint regarding unfair labor practices

When you file a complaint regarding unfair labor practices, you are required to present copies of the complaint.

You are invited to write, in the following manner, about 'practical facts constituting unfair labor practice' for a written complaint.

1. Unfair treatment (according to Paragraph 1 of Section 7 of the Trade Union Law)

- In case of a dismissal, transfer or discipline
 - When and why the dismissal, transfer or discipline was made;
 - Why such an act was unjustifiable (facts and arguments to prove that such an act was really due to union activities).
- In case of discrimination in wage increase or promotion
 - What discrimination was made and when;
 - The facts of why the discrimination was unjustifiable (facts and arguments to prove that such an act was really due to union activities).

2. Refusal of collective bargaining (according to Paragraph 2 of the same Law)

- When and for what collective bargaining was demanded;
- When and why collective bargaining was refused by the employer.

3. Control and interference (according to Paragraph 3 of the same Law)

- Facts that the employer controlled or interfered in the formation or operation of the trade union (when, who, where, to whom, how)

4. Unfair treatment of a worker because of his or her having participated in a procedure of the Labor Relations Commission (according to Paragraph 4 of the same Law)

- When and why an unfair treatment occurred;

- Why such unfair treatment was unjustifiable (facts and arguments to that such treatment was really due to having participated in a procedure of the Labor Relations Commission).

You are required to present 6 copies of the written request. When there are two or more defendants, the number of copies increases. When a trade union files a complaint, it must present a copy of documentary evidence necessary to the examination of qualifications (see next paragraph)

(3) Application for examination of trade union qualifications

To apply for the examination of trade union qualifications, it must present a copy of the application form and documentary evidence. Please submit one copy each of the application form and documentary evidence. The documentary evidence is as follows.

1. Trade union rules and supplementary rules (proceedings rules; election rules, and the like);
2. List of union officers (if they hold a position in the company, position name should be also shown.);
3. Collective agreement (union activities during working hours; treatment of full-time union officials; agreement on the range of workers eligible to join the union);
4. Union's financial report (or budgetary report);
5. Paper showing those not eligible to join the union (clearly showing, in the company organizational structure table with position names, a distinction between union members and non-members).

List of Relevant Organizations

Name	Address	Tel.	Jurisdiction	Nearest station
Central Labor Relations Commission	1-5-32, Shibakouen Minato-ku	Main line. 03(5403)2111		Subway Onarimon Subway Daimon JR Hamamatsucho
Tokyo Metropolitan Government, Bureau of Industrial and Labor Affairs, Labor Environment Section	2-8-1 Nishi-Shinjuku, Shinjuku-ku 31F Tokyo Metropolitan Government (TMG) No. 1 Bldg.	03(5320)4647		JR Shunjuku Subway Tochomae
Tokyo Metropolitan Rodo 110-ban (Exclusive telephone labor consultation)		Labor consultation 0570(00)6110	All areas metropolitan Tokyo	
Tokyo Metropolitan Labor Consultation Center				
Center (Iidabashi)	9F Tokyo Work Center , 3-10-3 Iidabashi, Chiyoda-ku	To reserve at-center consultation 03(3265)6110	Chiyoda-ku, Chuo-ku, Shinjuku-ku, Shibuya-ku, Nakano-ku, Suginami-ku, Toshoh	JR Iidabashi Subway Iidabashi
Osaki	2F West Tower Gate City Osaki 1-11-1 Osaki, Shinagawa-ku	To reserve at-center consultation 03(3495)6110	Minato-ku, Shinagawa-ku, Meguro-ku, Ota-ku, Setagaya-ku	JR Osaki
Ikebukuro	4-23-9 Higashi Ikebukuro, Toshima-ku	To reserve at-center consultation 03(5954)6110	Bunkyo-ku, Toshima-ku, Kita-ku, Arakawa-ku, Itabashi-ku, Nerima-ku	Subway Higashi Ikebukuro
Kameido	7F Kameria Plaza 2-19-1 Kameido, Koto-ku	To reserve at-center consultation 03(3637)6110	Taito-ku, Sumida-ku, Koto-ku, Adachi-ku, Katsushika-ku, Edogawa-ku	JR Kameido Tobu Kameido
Kokubunji	3-22-10 Minami-cho, Kokubunji-shi	To reserve at-center consultation 042(321)6110	Tachikawa-shi, Musashino-shi, Mitaka-shi, Ome-shi, Akishima-shi, Koganei-shi, Kodaira-shi, Higashi Murayama-shi, Kokubunji-shi, Kunitachi-shi, Fussa-shi, Higashi Yamato-shi, Kiyose-shi, Higashi Kurume-shi, Musashi Murayama-shi, Hamura-shi, Akiruno-shi, Nishi Tokyo-shi, Nishitama-gun	JR Kokubunji
Hachioji	3-5-1 Myojin-cho, Hachioji-shi	To reserve at-center consultation 042(645)6110	Hachioji-shi, Fuchu-shi, Chofu-shi, Machida-shi, Hino-shi, Komae-shi, Tama-shi, Inagi-shi	Keio Keio Hachioji JR Hachioji

Name	Address	Tel.	Jurisdiction	Nearest station
Ministry of Health, Labor and Welfare, Tokyo Labor Bureau	14F Kudan No.3 Government Office Complex, 1-2-1 Kudan Minami, Chiyoda-ku	General Labor Consultation Corner 03(3512)1608		Subway Kudanshita Subway Takebashi
Tokyo Labor Bureau, Yurakucho General Labor Consultation Corner	3F Tokyo Kotsu Kaikan, 2-10-1 Yurakucho, Chiyoda-ku	03(5288)8500		JR Yurakucho Subway Yurakucho
The General Labor Consultation Corner of the Tokyo Labor Bureau can also be accessed by a freedial number: 0120 (601) 556. *The number can be called from general phones within the Tokyo metropolitan area. It will connect you to the Yurakucho General Labor Consultation Corner.				
Labor Standards Inspection Office				
Chuo	6&7F Iidabashi Government Office Complex, 1-9-20 Koraku, Bunkyo-ku	Labor consultations 03(5803)7381	Chiyoda-ku, Chuo-ku, Bunkyo-ku, Toshu (excluding Ogasawara-mura)	JR Iidabashi Subway Iidabashi
Ueno	7F Ueno Government Office Complex, 1-2-22 Ikenohata, Taito-ku	Labor consultations 03(6872)1230	Taito-ku	Subway Yushima JR Okachimachi JR Ueno
Mita	3F Anzen Eisei Sougo Kaikan, 5-35-2 Shiba, Minato-ku	Labor consultations 03(3452)5473	Minato-ku	JR Tamachi JR Mita
Shinagwa	3-13-26 Kamiosaki, Shinagawa-ku	Labor consultations 03(3443)5742	Shinagawa-ku, Meguro-ku	JR Meguro JR Gotanda
Ota	8&9F Tsukimura Building, 5-40-3 Kamata, Ota-ku	Labor consultations 03(3732)0174	Ota-ku	JR Kamata Tokyu Kamata Keikyu Keikyu Kamata
Shibuya	5&6F Shibuya Jinnan Government Office Complex, 1-3-5 Jinnan, Shibuya-ku	Labor consultations 03(3780)6527	Shibuya-ku, Setagaya-ku	JR Shibuya JR Harajuku
Shinjuku	4&5F Shinjuku Labor Government Office, 4-4-1 Hyakunin-cho, Shinjuku-ku	Labor consultations 03(3361)3949	Shinjuku-ku, Nakano-ku, Suginami-ku	JR Takadanobaba Seibu Takadanobaba Subway Takadanobaba
Ikebukuro	1F Toshima Local Government Office Complex, 4-30-20 Ikebukuro, Toshima-ku	Labor consultations 03(3971)1257	Toshima-ku, Itabashi-ku, Nerima-ku	JR Ikebukuro Subway Ikebukuro Tobu Ikebukuro Seibu Ikebukuro
Oji	2-8-5 Akabane, Kita-ku	Labor consultations 03(6679)0183	Kita-ku	JR Akabane

Name	Address	Tel.	Jurisdiction	Nearest station
Adachi	4F Adachi Local Government Office Complex, 4-21 Senjyu Asahi-cho, Adachi-ku	Labor consultations 03(3882)1188	Adachi-ku, Arakawa-ku	JR Kita Senjyu Tobu Kita Senjyu Subway Kita Senjyu Tsukuba Express Kita Senjyu
Mukojima	4-33-13 Higashi Mukojima, Sumida-ku	Labor consultations 03(5630)1031	Sumida-ku, Katsushika-ku	JR Kinshicho Subway Kinshicho
Kameido	8F Kameria Plaza 2-19-1 Kameido, Koto-ku	Labor consultations 03(3637)8130	Koto-ku	JR Kameido Tobu Kameido
Edogawa	2-4-11 Funabori, Edogawa-ku	Labor consultations 03(6681)8212	Edogawa-ku	Subway Funabori
Hachioji	3-8-10 Myojin-cho, Hachioji-shi	Labor consultations 042(680)8752	Hachioji-shi, Hino-shi, Inagi-shi, Tama-shi	Keio Keio Hachioji JR Hachioji
Tachikawa	3F Tachikawa Local Government Office Complex, 4-2 Midori-cho, Tachikawa-shi	Labor consultations 042(523)4472	Tachikawa-shi, Akishima-shi, Fuchu-shi, Koganei-shi, Kodaira-shi, Higashi Murayama-shi, Kokubunji-shi, Kunitachi-shi, , Musashi Murayama-shi, Higashi Yamato-shi	JR Tachikawa Tama Monorail Tachikawa Kita Tama Monorail Takamatsu
Ome	2-6-2 Higashi Ome, Ome-shi	Labor consultations 0428(28)0058	Ome-shi, Fussa-shi, Akiruno-sahi, Hamura-shi, Nishi Tama-gun	JR Higashi Ome
Mitaka	3F Crystal Park Building, 1-1-3 Gotenyama, Musashino-shi	Labor consultations 0422(67)0651	Musashino-shi, Mitaka-shi, Chofu-shi, Nshi Tokyo-shi, Komae-shi, Kiyose-shi, Higashi Kurume-shi	JR Kichijoji Keio Kichijoji
Machida	2F Machida Local Government Office Complex, 2-28-14 Morino, Machida-shi	Labor consultations 042(718)8610	Machida-shi	JR Machida Odakyu Machida
Ogasawara General Office	152 Aza Higashi-machi, Chichijima, Ogasawara-mura	04998(2)2102	Ogasawara-mura	
Tokyo Metropolitan Labor Data Center	9F Tokyo Work Center, 3-10-3 Iidabashi, Chiyoda-ku (Attached to the Tokyo Metropolitan Labor Consultation Center)	03(5215)5857	Opening hours: 9 a.m.- 5 p.m. Closed: Sat., Sun., Public hols., End-of-year/ New year hols., 15th of every month (the day after if the 15th is a regular closed day.)	JR Itabashi Subway Itabashi

Relevant Laws and Ordinances

Conciliation

Labor Relations Adjustment Law	Articles 12-14
Labor Relations Commission Rules	Articles 64-66
Local Public Corporation Labor Relations Law *	Article 4

Meditation

Labor Relations Adjustment Law	Articles 18-26
Labor Relations Commission Rules	Articles 69-76
Local Public Corporation Labor Relations Law*	Article 14

Arbitration

Labor Relations Adjustment Law	Articles 30-34
Labor Relations Commission Rules	Articles 78-81
Local Public Corporation Labor Relations Law*	Articles 15, 16

Unfair Labor Practice

Trade Union Law	Articles 7, 27, 32
Labor Relations Commission Rules	Articles 32-45, 51
Local Public Corporation Labor Relations Law*	Articles 4, 16-3

Examination of Qualifications

Trade Union Law	Articles 2, 5, 11
Labor Relations Commission Rules	Articles 22-27
Local Public Corporation Labor Relations Law*	Article 4

*Official name: Law on Labor Relations of Local Public Corporations, etc.

Guide to the Labor Relations Commissions

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Examination & Adjustment Section

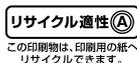
Consultation 03 (5320) 6996, 6995

Adjustment 03 (5320) 6994

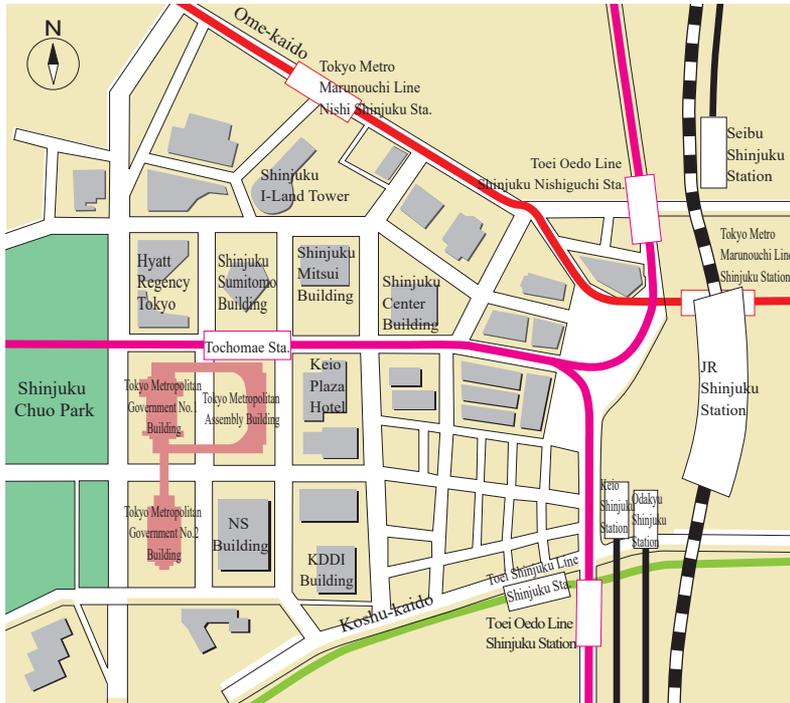
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Homepage <http://www.toroui.metro.tokyo.jp/>

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Map of Area around the Tokyo Metropolitan Government Office Building



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