

ETHICS RULES FOR NATIONAL GOVERNMENT OFFICIALS IN JAPAN

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I. INTRODUCTION

If the politicians and public officials who bear the responsibility of sustaining the foundation of their country lack integrity, and bribery is pervasive, the basis of democracy will be endangered. Thus, one of the most important duties of a criminal justice system is to detect corruption and impose appropriate punishment on corrupt politicians and public officials.

The prevention of corruption is no less important than detection and punishment. Confidence in politicians and public officials can be damaged quite easily, but rebuilding it takes considerable time and effort. The punishment of corrupt politicians and public officials does not necessarily help prompt restoration of public confidence.

Taking into account the importance of confidence, public officials should never be suspected of allowing themselves to be influenced in their work by inappropriate requests or considerations. Public officials should refrain from doing anything that may incur suspicion. In this regard, there is an old saying: “Do not touch your hat under a plum tree.” (By doing so, you will be suspected of stealing a plum.)

What harm is caused when the public loses confidence in its public officials? One of the harms is a negative effect on the administration of government, and the other is a negative effect on the morale of government officers. It should be noted that not only the corrupted officer, but also the whole ministry, or even the whole government, will be affected.

II. ETHICS RULES FOR GOVERNMENT OFFICIALS IN JAPAN

A. Background

According to Transparency International’s Corruption Perceptions Index 2019, Japan ranks 20th out of 198 countries. It is fair to say that Japan is a relatively clean country. Nonetheless, Japan is not free from corruption, and some corruption cases have been detected over the years.

In 1996, the Vice-Minister of Health was arrested for receiving money from a social welfare service corporation in exchange for providing subsidies. In 1998, high-ranking officials of the Ministry of Finance in charge of inspection of banks were entertained by banks and securities companies.

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These cases provoked criticism from the public and led to the enactment of the National Public Service Ethics Act of 1999 and the National Public Service Ethics Code of 2000. The ethics rules in Japan consist of two major components: the code of conduct and the reporting system.

B. Applicable Public Officials

The National Public Service Ethics Act is applicable to national government officials. Although it is not applicable to local government officials, local governments have similar rules.

C. Prohibited Conduct

The following conduct is prohibited by the Act and the Code:

(1) Receiving gifts (money, goods or real estate) from interested parties

However, as an exception, it is allowed to accept promotional goods or commemorative items that are widely distributed to the public, or to accept congratulatory money for a wedding or condolence money for a funeral (based on the general social courtesy and special relationship between the interested parties).

(2) Accepting food and drinks from interested parties

However, as an exception, it is allowed to attend a buffet-style party that has many participants (around 20 persons or more), or to accept modest food and drinks (e.g. lunchbox or tea) at a business meeting. Government officials are allowed to eat and drink with interested parties if they pay their own expenses. However, advance notification to the Ethics Supervisory Officer is required if the expense for food and drinks exceeds 10,000 yen.

(3) Borrowing money from interested parties

However, as an exception, it is allowed to borrow money from a financial institution as a customer.

(4) Borrowing or renting goods or real estate for free from interested parties

However, as an exception, it is allowed to borrow goods (e.g. stationery) when an officer visits an interested party in the regular course of the officer's business.

(5) Accepting a service free of charge from interested parties

However, as an exception, it is allowed to ride in a company's vehicle when an officer visits an interested party in the regular course of the officer's business and there is no public transportation available.

(6) Receiving unlisted stocks from interested parties

It is prohibited even if a government officer pays for unlisted stocks.

(7) Traveling or playing golf with interested parties.

However, as an exception, it is allowed to travel for official duty or to travel together when an officer participates in a tour arranged by a travel agent and an interested party happens to be on the same tour. With regard to playing golf, it is allowed to play golf with an interested party when an officer joins a golf competition (the number of participants is more than 30 and the participation of an interested party is unpredictable) and the officer happens to have a chance to play golf with an interested party.

(8) Requesting interested parties to engage in “prohibited conduct” for a third party.

(9) General exception

In addition to the exceptions stated above in items (1) through (8), if there is a private relationship between a government officer and an interested party, the “prohibited conduct” may be exceptionally permissible on the condition that the conduct does not invite any suspicion or distrust of the general public. In deciding whether there is a private relationship, factors such as (i) degree of “conflict of interest,” (ii) relationship between the two parties, and (iii) type of conduct are considered.

(10) Receiving remuneration for editing services of the following books:

Books that are produced through subsidies or government expenses; books when the majority of them will be purchased by the government.

D. Interested Party

An interested party with respect to a government official means an entity or an individual who is the counterpart of the government official with respect to permission, subsidy, inspection or audit, disposition, administrative guidance, contract or inter-governmental regulation.

E. Conduct Prohibited with Non-interested Parties

The following conduct with non-interested parties is prohibited:

- (1) Accepting gifts beyond the level of general social norms, e.g. repeatedly accepting gifts from the same company.
- (2) Having someone (who is not present) pay for food, drinks or other charges. (Accepting payment for food, drinks or other charges from someone who is not present.)

F. Responsibility of Supervisors

Supervisors should take action if they suspect one of their subordinates has violated the code of conduct. The examples of such actions are:

- Giving instructions to the subordinate.
- Reporting misconduct to the Ethics Supervisory Officer (e.g. the Vice-Minister of each ministry).

G. Responsibility of Other Officers

It is also a responsibility of a government official not to receive benefits that are the result of violations of Ethics Rules, and not to hide or to make false reports with regard to violations of the Code of Ethics.

III. REPORTING RULES

A. Types of Reports

There are three types of reports that a government official should submit: (i) reports on the receipt of gifts, (ii) reports on the exchange of stocks, and (iii) reports on income.

B. Reports on the Receipt of Gifts

A government official who is at the rank of assistant director or above at the

headquarters should submit a quarterly report on the receipt of gifts if they receive gifts, food and drink, remuneration for lectures, or any other benefits from business operators that exceeds 5,000 yen.

C. Reports on the Exchange of Stocks

A government official who is at the rank of deputy director general or above at the headquarters should submit a report on the exchange of stocks once a year in March.

D. Reports on Income

A government official at the rank of deputy director general or above at the headquarters throughout the previous year should submit a report on income once a year in March.

E. Reporting Procedure

Government officials should submit the above reports to the heads of the ministry or agency to which they belong. Copies of those reports are sent to the National Public Service Ethics Board. The general public may request the disclosure of reports on gifts exceeding 20,000 yen.

IV. NATIONAL PUBLIC SERVICE ETHICS BOARD

The National Public Service Ethics Board is composed of five members. As of January 2021, the President of the Ethics Board is a former judge, and other members are a journalist, a professor, etc. Although the Ethics Board is established under the National Personnel Authority, the Ethics Board works independently. One of the major functions of the Ethics Board is to examine copies of the reports sent from each ministry or agency. When reviewing these reports, the key considerations are whether an inappropriate acceptance of gifts or an inappropriate exchange of stocks which could distort the fair execution of the national public service has taken place, and whether the reports have been properly submitted. The Ethics Board has also established the Public Service Ethics Hotline, through which it accepts information from the public on suspicious acts that might be a violation of the Ethics Act or the Ethics Code. In handling such information, due consideration is given to the protection of whistle-blowers (e.g. maintaining confidentiality of the whistle-blowers' identity etc.).

V. DISCIPLINARY ACTIONS

In case of violation of the ethics rules, a disciplinary action, such as dismissal, suspension from duty, salary reduction or warning, will be imposed. The National Personnel Authority has established criteria for disciplinary actions. When an officer receives money or gifts from an interested party, dismissal, suspension from duty, salary reduction, or warning may be imposed. As a past example, in case of receiving “beer vouchers” of 66,000 yen, a 10 per cent salary reduction was imposed for one month. When an officer is entertained, salary reduction may be imposed or a warning may be issued. As a past example, in case of being entertained at a restaurant costing 10,672 yen, a warning was imposed. The effects of disciplinary actions are both direct and indirect. For example, in case of the sanction of salary reduction, not only the salary is reduced, but also there are negative impacts on future promotion, wage increase or the amount of bonus.

VI. CONCLUSION

Learning the ethics rules is not limited to obtaining knowledge on prohibited acts, but it is an opportunity to reflect on ethics in one's role as a government official. In this regard, it is not enough to simply learn the ethics rules once, but it is necessary to review them periodically. In Japan, government officials are requested to take a self-learning training course on the ethics rules every year.

Reflection on ethics leads not only to the prevention of violations of ethics regulations and corruption. It is an opportunity to think about how we, as government officials, should act and how we can improve our motivation to carry out our duties and serve the public.

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