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Opinion against the file to demand measure for improvement of working conditions

Amagasaki City Board of Education submits its opinion against the file to demand measure for improvement of working conditions by Gregory Patton and ten others (hereinafter, petitioners) on 14 Dec. 2023.

1. As for ALT

(1) ALT is an acronym of Assistant Language Teacher who is an assistant foreign language teacher or an assistant English teacher. They are just assistants or supporters recognized by students as foreigners supporting Japanese teachers so that they do not teach alone. They teach students with English teachers. Amagasaki city has deployed ALTs as part time Shokutakuin, as a sub-contractor at the beginning, to schools where students study live English from foreigners as native speakers and enjoy good experience of learning in addition to the study English through textbooks and Japanese teachers. The remuneration of ALT is higher than regular's one in job market because they are partly expected to their ability of "live English conversation" performance which Japanese does not do it at all.

(2) BoE has employed 14 ALTs at the time of 14 Dec. 2023 when the case to demand measures was filed. ALT assists to teachers for "the service of foreign language education and international understanding education", not teaches alone and only assists home-room teachers at the English classes. They are not required to have a teaching license.

(3) Basically, an ALT works at two elementary schools and one junior high school during first period to 6 period, 6 ALTs work 36.25 hours a week while 8 ALTs work 30 hours a week.

(4) At the beginning abovementioned (1) BoE paid ALTs remuneration per hour and from 1991 made sub-contracts with ALTs as part-time Shokutakuin based on the article 3-3-3 of Local Public Service ACT in order to keep stable ALTs working conditions and good personal sources in the need for increase the number of ALT and its class due to the requirement of English education in Japan. ALT was a special public employee regulated on Local Public Service ACT with one year term of employment and may be re-employed at a new same job being considered their intense, ability and health condition and so on in the system.

(5) In 1991 when the job of ALT was established, the remuneration was designed politically

higher than regular worker considering other cities ALT salary because of their professionalism and similar working hour with regular workers while keeping as same salary as previous one for being recovered by social insurances and recruiting talented persons with necessary competence for foreign language education and smooth job implementation.

2. Amendment of Local Public Service ACT

(1) “Amendment of Local Public Service Act” was passed at the 193 congress/senate. On 28 Jun. 2017 Ministry of Internal Affairs and Communications (MIC) issued a notification which said the contents of Amendment as follows:

Part-time public sector employees have increased to 640,000 and become important for local governments in the education and childcare fields. The appropriate hiring and working conditions are required and therefore the amendment of law is expected.

The contents of amendment are: Kaikeinendo system is established and hiring/discipline scheme are made; the hiring conditions of special public service employee is limited; envisage to convert to kaikeinendo. Additionally the term end bonus must be paid to Kaikeinendo.

The amendment above will make a systematic basement that encourages general treatments of hiring and working conditions which have been different by municipalities.

(2) Since then, MIC issued a new notification on 23 Aug. 2017 with an attachment named “ Manual to deal with the introduction of kaikeinendo (Manual)”.

(3) Above two notifications were issued based on article 59 ‘technical advice) of Local Public Service Act and were as same legal nature as the notification on 20 Oct. 2023 submitted by petitioners as Kou 6.

(4) “technical advice” was introduced in 1999 by the other law and no legal power was attained to it. Municipal governments can make different policies from the State because of regional circumstance, and they can make decisions even though following the State.

3. BoE’s response to the amendment of Local Public Service ACT

(1) BoE decided the legal background of hiring of ALT studying the Manual: ALT be converted to Kaikeinendo since the Manual says it on p. 14.

(2) The Manual says about the remuneration of kaikeinendo as advice:

“ it is necessary to decide appropriately the payment standards and system of kaikeinendo based on the principle of job related payment, the principle of equilibrium regulated in article 24 of Local Public Service Act”

“ payment standards must be made considering contents of job. its responsibility, necessary knowledge of job performing, skills and experiences based on the starting salary of the similar job for full-time employee”

(3) These advices are stemmed from the principle of job-related payment (article 24-1) and the principle of equilibrium, payment be decided considering the cost of living, employee' salary of State, other municipality and private company.

(4) BoE decided basically the remuneration of kaikeinendo based on the starting salary of city employee regulated in the Amagasaki City Employee Salary Ordinance (basic pay scale) and adjust it to kaikeinendo by working hour plus regional allowance. BoE also decided to guarantee the current payment if the kaikeinendo remuneration will be lower than current one.

(5) As a consequence, ALT's remuneration becomes extremely higher than one calculated by the basic pay scall: 30 hours ALT (348,500 vs 231,500), 36.25 hours ALT (442,300 vs 254,210). The salary of full-time city employee as a director ranged from 306,900 to 477,500 at this time.

(6) When this above amount is rated for annual remuneration, 5,870,000 for 36.25 hours ALT and 4,740,000 for 30hours ALT are surprisingly superior to 3,380,000 calculated by the basic pay scale. BoE decided to keep the current payment as exceptional measure due to the remuneration related to the cost of living.

(7) After being converted to kaikeinendo ALT's remuneration has been kept same when considering the principles of Local Public Service Act, the tide of recommendation of National Personnel Authority, payment standards of other kaikeineno in Amagasaki city and other cities.

4. ALT's working situation

(1) While the wage standard of ALT is explained above 3, we would like to refer the working situation of ALT. Needless to say, BoE perfectly understands the importance of ALT's job and expects their ability for improvement of student's English from elementary through high school. We aim to indicate only the "fact" when consider the wage standard of ALT.

(2) ALTs are given the paid leave regulated in article 39 of Labor Standards Law. ALTs are eligible to take 10 days paid leave in a starting year and the number of paid leave increases every year until 20 days in the seventh year of service. On the other hand, the remuneration is fully paid even in summer when no need for work to assist teachers due to no classroom is opened.

(3) ALTs are not required to plan and prepare the class, cope with students and parents in their life advise or conflict because of ALTs tasks as assistant and support explained above 1 (1) and (2). ALTs are holding high motivation to their job and few ALT quit or move because they do not need to cope with citizens as claimers such as "monster parents".

(4) ALTs are kaikeinendo and can work at English conversation schools when no class at school s opened. They are even encouraged to do so in order to improve their abilities. The

permission by BoE to take second job is not necessary, and there seem to be ALTs who have second job.

5. ALT and EWA

(1) On 24 Oct. 2023, the “request of collective bargaining of winter bonus 2023” was sent to the subsection chief in charge of personnel management of BoE by email from Education Workers and Amalgamated Union Osaka (EWA) to which the representative of petitioners belongs. EWA has requested demands regarding to working conditions every summer and winter, and the collective bargaining has been held with BoE. In June 2023, the collective bargaining was held where BoE answered to EWA’s demands.

(2) BoE once asked EWA showed its membership, but EWA refused it so that BoE has no idea about its membership while the file to demand measures indicates 5 ALTs have joined EWA.

(3) ALTs were converted to kaikeinendo as general public service employees on 1 Apl. 2020 when the revised Local Public Service Act was in force as explained above 3 (1). ALTs are, therefore, not covered by the article 7 of Trade Union Law due to the Article 58 of Local Public Service Act. EWA is not an employee organization regulated by Local Public Service Act since it has not submitted the registration to the Equity Committee of Amagasaki as an employee organization based on article 53 of Local Public Service Act. BoE, therefore, is legally not obligated to negotiate with EWA. But BoE has negotiated in good faith as mentioned 6 below regardless of the viewpoint of law because those ALTs working at city schools are EWA member.

6. Negotiation with EWA until the file to demand measures

(1) Negotiation on 14 Nov. 2023

ㄗ BoE discussed in the committee about the demands of EWA abovementioned 5 (1) and made an answer to it. BoE and EWA had negotiation on 14 Nov. 2023 starting 6 pm with mutual consent. As you know, EWA adviser and secretary written in this paper are not employees of Amagasaki.

ㄘ At the negotiation, EWA adviser insisted that BoE must improve the ALT’s wage following the recommendation of National Personnel Authority and the notifications from the State. BoE answered to the demands and not follow the recommendation of National Personnel Authority because ① ALT’s remuneration is not covered by any pay scale but exceptionally fixed. ② ALT’s remuneration is higher than other kaikeinendo ③ ALT’s remuneration is located in higher rank among neighbor cities. EWA adviser argued that ALT’s remuneration must be positioned in higher pay scale if it is superior to the basic pay scale. BoE replied to him that his idea is not acceptable since so called “watari”, move to other pay

scale, is forbidden due to principle of job-related wage and principle of equilibrium.

ウ EWA adviser stated that they would go on strike unless the demands are accepted. The section chief in charge explained that ALTs are general public service employees and forbidden the right to strike, but the negotiation became entangled with EWA adviser's opposition.

エ Since then when the planned negotiation time passed, BoE replied the requests from EWA secretary that BoE will later show the tangible image of deciding remuneration of kaikeinendo and search the similar job to ALT.

オ In addition, it is not correct that the word of 40 hours ALT is written in 5 of the file to demand measures as written 1 (3) above. The file to demand measures also says "any pay scale does not apply", but it is not accurate because BoE answered that no applicable pay scale is made since no pay scale for kaikeinendo exists.

(2) Negotiation on 27 Nov. 2023

ア After the negotiation on 14 Nov. 2023, EWA secretary and the section chief in charge agreed to have a dialog on 27 Nov. at the EWA union office. BoE wish as many ALTs as possible take part in the dialog for their own idea and opinion heard. EWA secretary replied that EWA secretary alone participates in since ALT members' opinion varied so that the dialog must be unofficial for a while. The dialog was set just among EWA secretary and the section chief in charge.

イ BoE explained the general system of deciding remuneration of kaikeinendo showing an image at the dialog. BoE also explained that ALTs are recognized as employees with same qualification to public health nurses or social workers who graduates university/college since ALTs are qualified to graduate university/college or holding similar knowledge or experience though same job to ALT is not existed. Therefore BoE explained ALT's remuneration is positioned in the university/college rank of the basic salary scale if applied.

ウ Then, both parties discussed about how to manage basic remuneration and end term bonus based on the negotiation on 14 Nov. 2023. BoE also explained that they will cope with the strike forbidden by Local Public Service Act following "the guideline of punishment for employee of BoE Amagasaki". The dialog ended up that BoE would answer again later considering the negotiation so far.

(3) BoE discussed inside the institution and decided no change of answer to EWA considering the negotiation and dialog on 14 and 27 Nov. 2023, and told EWA secretary the consequence by phone at around 1 pm on 29 Nov.

(4) Then on 3 Dec. 2023, EWA secretary asked BoE by email: that the answer to EWA as keep the current condition means the recommendation of National Personnel Authority does not apply to ALT.

(5) The section chief in charge called EWA secretary at around 6:20 on 4 Dec. 2023 and told that ALTs remuneration has exceptionally been kept as same of past standard considering equilibrium with other kaikeinendo, we do not change the current policy after considering EWA demands, therefore we go in the different way from the recommendation of National Personnel Authority as a result and wish to discuss the wage system with union members. EWA secretary requested that BoE would send this matter by email or set up the next session of negotiation. BoE sent EWA secretary the same contents as above by email on 5.

7. BoE' opinion against the file to demand measures for improvement of working conditions

(1) Comparison of ALT's average salary

BoE has acknowledged the situation of private sector workers, other Amagasaki city Kaikeinendo and neighbor cities ones based on the principle of equal treatment regulated by Local Public Service Act as follows.

ア 36.25 hours ALT's basic salary is 442,000 yen a month and 5,870,000 yen a year. 30 hours ALT's basic salary is 348,000 yen a month and 4,740,000 yen a year.

イ According to a private company research based on the Labor ministry guidelines, average salary of lecturer at English conversation school is 3,760,000 yen a year. 30 hours ALT's annual remuneration is 1.6 times higher than this worker. But the comparison ALT and English conversation school lecture needs caution because ALT's job as explained above 1 (2) is to assist teacher at English class at schools while lecturers alone teach students.

ウ BoE has made a dispatch contract with a private company and deployed these ALTs to 19 elementary schools and 7 junior high schools based on Amagasaki City strategy to invite private company's professionalism and expect cost performance.

エ The dispatch contract with a private company shows its amount which is calculated by a hourly payment of 3,419 yen so that dispatched ALTs receive 348,652 yen a month for 36.25 hours working if a company deducts 33% as a margin from contract figure. These ALTs receive 3,760,000 yen a year if they work 1,640 hours a year, and 36.25 hours ALTs receive 1.6 times higher than dispatched ALTs.

オ Other Kaikeinendo employee receives 211,970 yen a month in their highest salary at the time of 14 Dec. 2023 when the demand of measure to improvement of working conditions. If bonuses of 4.5 months salary is added to this salary, it makes 3,500,000 yen a year. 36.25 hours ALTs receive 1.7 times higher than these employees.

カ BoE has studied neighbor 9 cities. The monthly salary of Amagasaki ALT is second highest among these cities and top highest as annual salary when recount their salary as full-time employee (see the table 1). Furthermore, Only one city increased ALTs salary based on

the recommendation of personnel authority this year (this city ALT's salary is less than Amagasaki both in monthly and annually.)

(表1) 本市の近隣市のALTの報酬水準

	尼崎市	A市	B市	C市	D市	E市	F市	G市	H市
例月報酬	473	350	365	376	343	508	246	-	-
年収	5,870	4,363	4,440	4,080	5,095	5,557	3,541	4,595	4,862
週勤務時間	36.25	33.5	35	35	35	29	38.75	-	-

※「例月報酬」は、各市の例月報酬をフルタイムに換算し算出。単位は千円
 ※「年収」は、各市の実年収をそのまま記載。単位は千円。
 ※G市、H市は、勤務時間を年単位で設定しているため、フルタイム換算が不可
 ※「週勤務時間」の単位は時間

ALT's average salary among neighbor cities

	Ama	A	B	C	D	Ashiya	Itami	G	H
monthly	473	350	365	376	343	508	246		
annually	5,870	4,363	4,440	4,080	5,095	5,557	3,541	4,595	4,862
Work time	36.25	33.5	35	35	35	29	38.75		

* monthly salary is calculated as full-time employee's one: 38.75 hours a week; ex. Ama40h--- $442,300/36.25 \times 38.75 = 472,800 \dots 473,000$

* annual salary is the same as current one

(2) Appropriateness of practice on this time

Petitioners insists that BoE's practice to keep the basic remuneration and bonus of ALT is against the principles of Local public Service Act and the notifications from MIC though BoE improved the regular employee's salary and bonus following the recommendation of National Personnel Authority. But BoE's practice over this issue is legitimated and petitioners' demands are unjustified. The reasons are as follows.

ア The recommendation of National Personnel Authority is compensational measure for the limitation of labor rights and provides employees the appropriate salary suitable to social situation, and basically take equilibrant salary standard to regular national public service employees with private sector employees. Amagasaki city has followed the recommendation of National Personnel Authority because of no personnel committee exists.

イ Therefore, the pay scales of Amagasaki City being revised based on the recommendation of National Personnel Authority are on the standard derived from principle of equilibrium, the following recommendation of National Personnel Authority is legal practice when revise

the salary of employees whose salary are decided through the pay scale.

ウ However, it is not suitable to apply the recommendation of National Personnel Authority to ALT's remuneration which is not decided through the pay scale since it exceeds the upper grade of pay scale, and should be decided separately based on the principles of Local Public Service Act.

エ As mentioned above 7 (1), the current standard of ALT's remuneration is already high and not be increased from the point view of principle of equilibrium (see the table 2), BoE has decided not to increase.

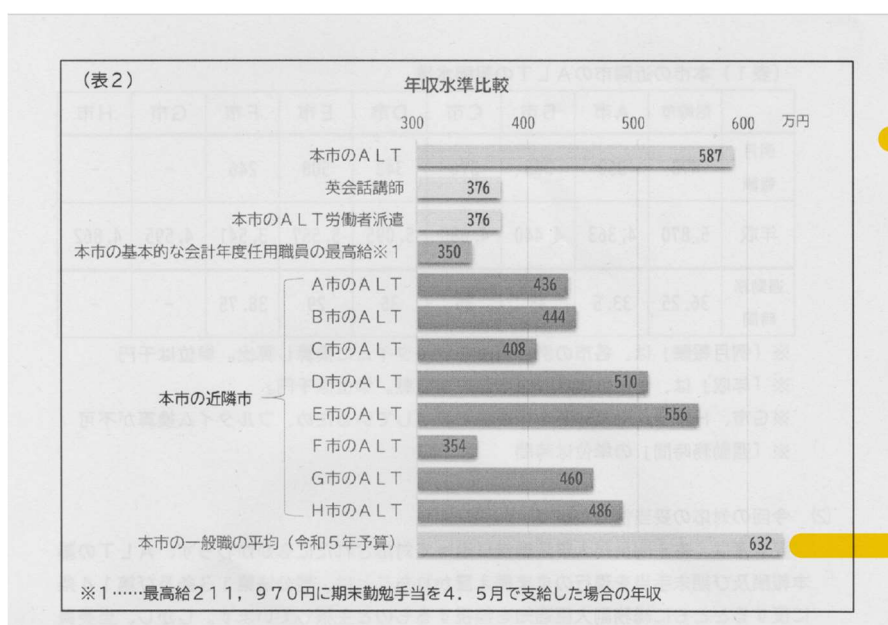


Table 2 comparison of average annual wage

		300	350	400	450	500	550	600	650
Ama ALT									587
English conversation				376					
Dispatched ALT				376					
Ama other Keikeinendo				350					
ALT	A					436			
	B					444			
	C			408					
	D						510		
	E							556	

	F		354	
	G		460	
	H		486	
Ama Regular employee				632

オ Therefore, the petitioners' claim that city practice is against laws and notifications from the State due to just no treatment of the recommendation of National Personnel Authority to ALTs is unjustified, not see the wood for the trees, when checking with the contents of Local Public Service Act. The notification from MIC referred by petitioners also says that salary revision must be made as condition of "appropriate practice ... based on the Local Public Service Act".

カ Petitioners insist that reduction of remuneration has been continued. But part-time employees are employed yearly based and BoE has not proposed the reduction of remuneration assuming continual employment. BoE decides appropriate remuneration for ALT for one year. When petitioners insist that the remuneration of 2005 afterward is reduced comparing with the previous one, it is unjustified since the reduction was carried out by not only financial situation but also improvement the gap of standards among other cities. BoE claims that this measure failed to make equilibrium among cities.

カ Accordingly, BoE's decisions are legitimate and not against laws nor notifications from the State.

(Personnel Division)