

Q&A at the 2nd Labor Law seminar by TECC

Q1: I have an employment contract with a fixed overtime payment as % of base salary or % of annual income. Is there any illegality?

(基本給の%または年収の%として固定残業手当を伴う雇用契約を結んでいますが、違法行為はありますか?)

A1: It is necessary to specify overtime hours clearly and separate them from the basic wage part.

(なるべく時間外労働時間を明確に、基本給部分と切り離して明記する必要があります)

Q2: About the obligation to grant 5 days of annual paid leave. I think it's difficult to give everyone 5 days. How should we do.

(年次有給休暇5日付与する義務について。5日間を全員に付与するのは難しいが、どうしたら良いのか教えてほしい)

A2: Before the fiscal year begins, please create a shift table of vacation schedules to determine when each of your employees will take annual paid vacations.

(会計年度が始まる前に、休暇スケジュールのシフト表を作成して、各従業員が年次有給休暇を取る時期を決定する方法があります)

Q3: Can an employer dismiss an employee who does not submit a resume after hiring?

(雇用主は、雇用後に履歴書を提出しない従業員を解雇できますか?)

A3: After offering the position, please include in your letter of pledge format to submit the required documents before joining the company, or dismiss if you do not submit it within the deadline.

(入社前に必要書類を提出することや、書類を期限内に提出しないのであれば解雇することをあらかじめ誓約書に盛り込み、提出させる等の手段を取り、期限内に提出しない場合は却下する方法があります)

Q4: Unexpected deterioration in health before joining the company is what kind of health deterioration recognized and how many months should the company keep on waiting and watching his or her recovery?

(入社前の予期せぬ健康状態の悪化とは、どのような健康状態の悪化までが認められるのか、また何ヶ月そのような状態を見極めればいいのでしょうか)

A4: There exist no legal rules for this issue, so please specify in your company's work rules or internal regulations. Some companies will wait for six months for his or her recovery after graduating from college, while others will not hire if they do not arrive in time on April 1. It depends on company's own rules on how long to wait for their recovery from illness.

(これについては、法律的なルールはなく、会社ごとに就業規則、もしくは内規に規定して下さい。会社によっては、大学卒業後6ヶ月回復を待つ会社もあれば、4月1日に間に合わなければ雇用しない企業もあります。会社のルール次第となります)

Q5: Is it possible to extend the probationary period for under-qualified employees? How many months can be extended if possible?

(能力不足社員の試用期間を延長することは可能ですか。可能であれば何ヶ月延長可能ですか。)

A5: There exist no legal rules for probational period. If the employee's lack of ability during the probationary period is objectively reasonable and is regarded as acceptable on social norms, the probationary period can be extended. However, the above legal conditions must be met.

(試用期間には法律上のルールがありません。もし、試用期間中の社員の能力に対して、客観的に合理的で、社会通念上相当な理由があれば、試用期間を延長することは可能です。ただし、上記の要件を満たしていなければなりません。)

Besides these explanation, there may be more detailed conditions required depending on the case. Please inquire us for details.

《Contact》

Contact form : <https://t-ecc.jp/english/>

※We will respond to your inquiry within 3 business days.

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