

The Administrative Counseling System of Japan

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Introduction

The public administration of the government is closely related to the life of the citizens in each field. However, the administrative system in the government has been getting complicated and diversified, so that the citizens have been facing difficulties to solve his or her problems in daily life. Recently, the various grievances about, complaints of and requests for public information or services have been brought by the citizens to the local, regional and central governments and their respective agencies, and this tendency has been growing every year.

The Administrative Counselors receive grievances about, complaints of, and requests for public information or services which are brought by the citizens, and they are reported in every month to the local offices, regional bureaus or head office of the Administrative Evaluation Bureau (hereinafter called as the "AEB"). The Administrative Counselors solve problems brought by the citizens in cooperation with and assistance of the local offices, the regional bureaus or head office of the AEB. On the other hand, the government realizes the grievances about, complaints of, and requests for the public information or services which the citizens face in his or her daily life, and utilizes solutions of the problems to promote reconstruction, improvement and remodeling of the operation of public administration and the system of the government and its agencies.

The administrative counseling system was originally born as a part of the Administrative Management Agency by Central Government in 1955 and has contributed toward solving the various problems regarding several governments and their respective agencies. This article was written to introduce the system of Administrative Counseling and activities of the Administrative Counselors. The author has been acting as one of the Administrative Counselors since 1991.

I. Historical Background

After the Administrative Management Establishment Act was enacted in 1948, the Administrative Management Agency (hereinafter called the “AMA”) was established on July 1, 1948. Thereafter, administrative counseling was born in the AMA of Central Government in 1955, and counseling offices were established at the local branches of AMA. However, the counseling offices were insufficient, because there was only one officer for each prefecture. The Revised Administrative Management Establishment Act¹ was passed in 1960 and in the following year, the official administrative counseling system was commenced in the AMA with 882 members of Administrative Grievance Counseling Cooperator (the name was replaced with “Administrative Counselor” in 1966). They rendered counseling service conveniently and friendly to the citizens.

After the Administrative Counselor Act² (hereinafter called as the “Act”) was newly enacted in 1966, the administrative counselors were committed by Director-General of the AMA under the Act. The definition and status of administrative counselors is clearly provided by the Act. In 1984, AMA was reorganized and the name was changed to the Management and Coordinate Agency (hereinafter called as the “MCA”). The number of administrative counselors has been gradually increased to 1,755 in 1962, 2,690 in 1963, 3,605 in 1964, 3,660 in 1972, 4,576 in 1973, 4,789 in 1981, and 5,046 in 1991, which is the current total number of administrative counselors nationwide. In 1987, the office of the Administrative Grievance Resolution Promotion Council was established.

The Administrative System of National Government was largely reconstituted in the year of 2001 and the name of MCA was replaced by the Ministry of Public Management, Home Affairs, Post and Telecommunications (hereinafter called the “MPM”) and the Department of Administrative Evaluation of MPM takes in charge of administrating counseling.

II. Status and Duties of the Administrative Counselors

A person to act as the Administrative Counselor is recommended by the mayor of local autonomy, such as a municipality where the person resides. The Administrative Counselor is desired to be a person who possesses social confidence, intellectual knowledge, profound understanding and enthusiasm to improve the operation of public administration. After the mayor recommends a person for the Administrative Counselor to a local office of the MPM, the resume of the recommended person is reviewed and examined, and the person is

¹ Revised Administrative Management Establishment Act in 1960.

² Administrative Counselor Act in 1966.

commissioned as an administrative counselor by the Minister of MPM with the term of two years³. Upon expiration of the term, the Administrative Counselor may be continuously re-commissioned until the age of 80. All members of the Administrative Counselors are not public employees, but they are private citizens. They render services to both the citizens and the governments in volunteer activities without any compensation⁴. At least one Administrative Counselor is posted to an each local government, and one counselor for the population of 50,000 is additionally commissioned in any municipality which has a larger population.

Where the problems or complaints brought to the Administrative Counselors by the citizens are not so much complicated, the Administrative Counselor contacts the related administrative agency and requests them to solve them. However where they are complicated and involve the multiple administrative agencies, the Administrative Counselors bring them to the local offices or regional bureaus which are branches of the AEB of the MPM. When either the bureaus or the local offices receive a report of problems from the Administrative Counselors or directly receives complaints from the citizens, they review them and then pass them to the relevant administrative agency and request them to solve or improve the complained situations.

Where the problems or complaints are related to the national government, it must be handled by the head office of the AEB. If the Director-General of the AEB recognizes a necessity of improvement or correction as a result of their investigation, the Director-General makes recommendation to the head of ministry or agency concerned and requests to take an action for improvement or correction as recommended. Based on such recommendation of the AEB, the head of ministry or agency concerned, in turn, submits a written statement to the Director-General of the AEB on the action that has been taken or to be taken in response. Furthermore, within a certain period of time after the response is made, the Director-General may also request the head of ministry or agency concerned to submit a report on the status and the result of actual improvement. If the report of improvement based on the recommendation is judged unsatisfactory, the Director-General may instruct the relevant local office of the AEB to take another round of inspection. If it is necessary, the Director-General makes another recommendation to the head of ministry or agency concerned until the improvement or correction is completed.

³ *Supra 2*, Art. 2.

⁴ *Supra 2*, Art. 8(2): The Administrative Counselor renders services in volunteer activity without compensation, however, he or she shall be reimbursed necessary expenses within the budget.

Results of investigation are compiled into a report, and recommendations for improvement or correction are prepared and submitted to the administrative agency concerned. These reports are also made available to the public. They are circulated not only among the administrative agencies, but also to the legislative branches and local public institutions.

The Administrative Counselor may express his or her opinion obtained through performing his or her duties to the Minister of the MPM for promotion of improvement or correction in administrative operation⁵. This opinion is very important and highly honored by the government and is kept as the valuable information for them

III. Activities of the Administrative Counselors

The names and addresses of Administrative Counselors are published in public information, guide books, or local news by the local government where he or she resides. When the citizens have some problems or complaints, or want to obtain public service or information, the citizens can easily access to the Administrative Counselor by writing to, or visiting him or her, and can bring any complaints or problems relating to the operation of public administrative agencies. In addition to providing interview services at his or her residence, the Administrative Counselors approach to the citizens as follows:

(1) *Administrative Counseling Week*

The Administrative Counseling Week is held every year in the Fall for propaganda and promotion of the administrative counseling system to the public. During the week, the Administrative Counselors actively render counseling service at the City Hall or public place in their respective districts. For example, in Tokyo, the special counseling service was held by Tokyo Administrative Evaluation Office of the AEB in cooperation with the Tokyo Administrative Counselor Association at the Sinjuku Station of Japan Railroad on October 18, 2010. The Director-General and the other staffs of the AEB, and the representatives of many public agencies were present there and directly received complaints from the citizens at their booth. For another example, the special administrative counseling for the college students was jointly organized by Tokyo Administrative Counselor Association and College Festival Organizing Committee of College of Law, Nihon University in Tokyo, Japan during a period of the college festival held in the campus from

⁵ *Supra* 2, Art. 4.

November 3 through 5, 1999. The purpose of the special administrative counseling is for not only counseling service, but also propaganda of the administrative counseling system to the students. Many college students stopped by the counseling booth and brought requests for information regarding the system of public administration, national examination for public service employment and national scholarship, etc. Also, they brought complaints regarding the national pension plans under which the students of the age of over 20 are required to make monthly insurance payments, even if they do not earn any income yet. However, the payment of monthly insurance payments may be postponed by filing an application form until they graduate from the college, and the most students have no information of such application procedure for the postponement. The special administrative counseling service for the students turned out to be very much effective as counseling service and for propaganda to the students, and since then, this project has been continuously organized every year.

(2) *Counseling Booth*

The Administrative Counselors regularly open the counseling booth at least every month at the City Hall or public hall where the citizens can easily and conveniently be given access to the Administrative Counselors, and render counseling service to the citizens there. The dates to open the booth for administrative counseling is printed in the local news letter or announced in the other media such as local broadcasting and TV. The citizens, who have any problems or want to have public service or information, visit the counseling booth during opening hours.

(3) *Circuit Counseling Booth*

Since a person who lives in the area away from the city is difficult or inconvenient to visit the counseling booth in the City Hall, the Administrative Counselors visit, in circuit, the local or district office of the City Hall for the citizens, and the Administrative Counselors open the local counseling booth there to render counseling service to the local citizens. Through those activities, the Administrative Counselors receive various grievances or complaints from many citizens in the territory assigned to him or her.

(4) *Joint Counseling Booth*

In Japan, there are various kinds of counselors under the many counseling systems such as Human Right Protection Counselor and Social Welfare

Counselor. The total number of the counselors is about 450 thousand in the 35 counseling systems.

While the Administrative Counselors are commissioned by the Central Government and are authorized to render counseling services to the entire public administration of the central government and its agencies, the most of other counselors are commissioned or appointed by the local government. Thus, the Administrative Counselors may take the leadership to organize conferences with the other counselors and to open a joint counseling booth to receive complaints or grievances from the citizens, so that the citizens may solve a problem or problems at one place (One Shop Service) without going around to see different counselors to solve their problem or problems. Through the joint counseling, the Administrative Counselors have been making efforts to make the counseling system effectively function for the citizens.

As the MPM has realized that the activities of the Administrative Counselors under the joint counseling have contributed towards promoting the entire counseling system, and have been effective to operation of the public administrative agencies and to daily life of the citizens, the MPM has supported and encouraged the Administrative Counselors to have this kind of opportunities as many as possible throughout the nation.

(5) Meeting with Local Representatives

The Administrative Counselors have organized meetings with the local representatives in their territory to receive the latter's opinions which may reflect the operation of the administrative agencies. The local representatives from the Residents Association, Commerce & Industry Association, Board of Education, Social Welfare Association, and the other associations are invited to the meetings for administrative counseling. At these meetings, the Administrative Counselors request the local representatives to express their opinions regarding the operation or management of the public administrative agencies and discuss various opinions with them. Those opinions are reported to the local offices or regional offices of the AEB in the MPM by the Administrative Counselors, or may be directly submitted to the Minister of the MPM as their advisory opinion⁶. These opinions from the local representatives have contributed to promote improvement of operation or management of the public administrative agencies. The MPM understands that this activity of the Administrative Counselors conveys various opinions of the local representatives to the MPM and is helpful to improve the public

⁶ *Id.*

administration, and the MPM has made its efforts to support the Administrative Counselors for such activity. Occasionally, this kind of meetings has been specially organized for foreign students in college campuses by Tokyo Administrative Counselors' Association in cooperation with their college administration. Several students who attended a conference brought complaints against the procedures to be made at an immigration office. The Administrative Counselor reported those complaints to the local office of the AEB which requested the Immigration Bureau of Ministry of Justice of Central Government to improve their procedures for the foreign students, especially from Asian countries. As results of the request from the AEB of the MPM, Tokyo Immigration Bureau has gradually improved their procedures.

(6) *Training System for the Administrative Counselors*

As the Administrative Counselors receive the various kinds of consultations from the citizens and solve many problems, they are required to have distinguished knowledge and sophistication. The MPM has understood the necessity to organize the training programs for the Administrative Counselors and it has been making great efforts every year to provide effective training programs for the Administrative Counselors. The head office of MPM has assigned this business to the local offices of the AEB. On the other hand, the Administrative Counselors make the programs and organize the training in their local district by themselves. Through those achievements of training, the AEB finally decided to organize the training session for the Administrative Counselor at the head office of the AEB.

The first training was organized and held on November 15 and 16, 1971 at the head office of the AEB in Tokyo, Japan. The 49 Administrative Counselors were invited to the first nationwide training where the following three key notes were presented: On "The Japanese Government" by Mr. Iwado, Vice-Minister of the MCA, on "Role of the Administrative Counselor" by Professor Kijima, and on "Current Affairs" by Professor Takasaka. Following these key notes, the practical case studies regarding effective consultation were presented and then the Administrative Counselors discussed each other the cases which they had handled through their activities.

After the first training at the head office of the MPM, the almost same training has been organized every July at the head office of the MPM. In addition to the regular annual training program for the Administrative Counselors, the special training was organized for the female Administrative Counselors and held by the head office of the MPM in Tokyo, Japan on August

24 and 25, 1986. The 70 representatives of the female Administrative Counselors from all over the country and 20 representatives from Tokyo district were invited to the training. The various opinions were expressed and debated under the theme of “For Activity of Female Administrative Counselors” by the participants.

The head office of the AEB in the MPM has contributed toward more actual training for the Administrative Counselors. However, the several issues have been pointed out with respect to the training. The most important issue is how to organize the training; i.e. the training should be more systematically organized. Consequently, this issue was finally concluded to be reviewed and more systematic training was reconstructed in support of the both head office and the regional and local offices of the AEB. For improvement of the training under the new idea, the principal rule was provided under the title of “The Operation Rule of Training for Administrative Counselor”⁷. In addition to the training at the head, regional or local offices, the induction course was established under the new rule for the Administrative Counselors who are newly commissioned. Pursuant to this rule, the role of various trainings has been shared among the head office, regional offices and local offices of the AEB. As a result, the training has been systematically organized and operated under the new system.

In addition to the central training system, the national conference for the representatives of the Administrative Counselors has been organized every year at the head office of the AEB since 1978⁸.

The main purpose of this conference is to promote the business of administrative counseling more effectively. The AEB invites the representatives of the Administrative Counselors who take the leadership in the counseling activities in their respective district or territory, and asks them to express their own opinions concerning their activities and to exchange their views in the various issues. Every year, the Minister or Vice Minister of the MPM, and Director-General, Deputy Director-General and the other managing officers of the AEB appear at the conference and exchange various opinions with the representatives. Also in this conference, several representatives express opinions or report their activities and experiences as administrative counselors, and key notes are addressed by the outstanding guest speakers.

⁷ “The Operation Rule and Regulation of Administrative Counselor Training” enacted on June 30, 1988, amended on March 22, 1992.

⁸ Supra 2, Art. 7.

(7) *Advisory Opinion of the Administrative Counselors*

The Administrative Counselors may express their advisory opinions obtained through their activities of administrative counseling with respect to improvement of the public administration of the agencies to the Minister of the MPM under the Act⁹. The advisory opinions have been received and highly appreciated by the Minister of the MPM as the important materials and information, since it is based on experiences of activities and knowledge of the Administrative Counselors. In order for the AEB of the MPM to promote improvement of operation on the public administration, the AEB has practically used the opinions or comments of the knowledgeable Administrative Counselors, therefore, the AEB has requested and encouraged the Administrative Counselors to submit their opinions every year. After the AEB carefully considers the advisory opinions, the AEB takes inspection of the respective administrative agencies through the regional bureaus or local offices of the AEB.

The AEB notifies to the central government or its agencies concerned of the advisory opinions relating to the public administration in which the central government is directly involved, requesting correction or improvement of their operation, and then the AEB continuously watches the status of improvement. If it is necessary, the AEB further conducts inspection to enforce correction or improvement of operation of such administrative agencies. Every year, many advisory opinions have been expressed to the Director-General of the AEB by the Administrative Counselors, and about 150 opinions affect the central government or its agencies. In the fiscal year of 2009-2010, the AEB received 176,531 complaints, of which 97,725 complaints were received through the Administrative Counselors which consists of 55.1 % of the total complaints received by the AEB. In detail, 21,043 complaints were actual grievances and the others were requests for public information or matters relating civil action. The major fields of grievance were the matter concerning highway, public utilities, water service and drainage, traffic signal or sign, welfare and urban planning.

IV. Role of the Administrative Grievance Resolution Promotion Council

The system of Administrative Grievance Resolution Promotion Council (hereinafter called the “Council”) was commenced in 1987 with five members in various fields who were a dean of law school, a professor of administrative law, a

⁹ *Id.* at Art. 4

former top ranked civil servant of the central government, a chairman of the central league of baseball federation and a former commentator of broadcasting company. The Council is an advisory body to the Director-General of the AEB with respect to mediation of grievance.

The matters of grievance, which are submitted to the Council, are related to the basic matters on the administrative system and operation and to daily life of the citizens. The following points have been considered for the selection of the matters to be submitted to the Council.

- (a) Counter measure to the change of situation after operation of the system and enforcement of the policy
 - i) Matter on which the harmonized measure shall be requested to the change of situation for increase of the objects after the system and the policy came into force.
 - ii) Matter on which the harmonized measure shall be requested to change of situation after the social role of administrative objects and the situation are changed.
 - iii) Matter on which review and reexamination of the system and of the policy shall be necessary after the consciousness of the citizens and the social environment are changed
- (b) Correction of over evaluation on importance to the administrative convenience.
 - i) Matter to which the correction has not been taken because of increase of quantity of business and of expenses in public administration.
 - ii) Matter to which the correction has not taken because of less administrative effects.
 - iii) Matter to which the correction has not been taken because of prudent consideration of administrative operation.
- (c) Ensurement of generalization and coordination in public administration
 - i) Matter on which the coordination among the administrative organizations and agencies has not been well taken.
 - ii) Matter on which the arrangement amount the systems and measures has not been well taken.
 - iii) Matter on which the adjustment among the similar systems and measures has not been taken.

The first conference of the Council commenced in December, 1989 and since then, it has been held quarterly every year. The conference of the Council had been organized and called by the Director-General of the AEB in the form of the friendship discussion. However, since February, 1990, the conference of the

Council has been organized to promote activation of administrative counseling system. Currently the members of the Council were increased from five to seven. They are two professors (administrative law and public administration), two former top ranked civil servants, an editorial writer of major newspaper, a commentator of broadcasting company and a retired Director-General of Cabinet Legislative Bureau.

As the socio-economic structure has been changed rapidly and the public administration become more complex and diversified, the many grievances against the public administration have been brought to the government and administrative agencies by the citizens. The Council carefully reviews and examines the contents of the grievances which are selected by the AEB from those brought directly or through the Administrative Counselor to the AEB, such as ones affecting the basis of existing system and policies of the government, and then expresses its opinion from a high and broad perspective views to the Director-General of the AEB regarding contents of the grievances. The Director-General is to act based on the opinion issued by the Council. The Council is instrumental in ensuring appropriate and effective solution of grievance which is brought by the citizens, and contributes to guarantee fairness and neutrality in the operation of the administrative counseling system. The Council has been playing important role in conducting mediation for correct judgment as to what is right to the complaint and the public administration. Each administrative agency accepts and honors the mediation by the AEB, because of prestige and background of the members of the Council. The AEB urges the agency to take the specific action based upon the opinion of the Council.

In addition to the Council, there are twelve regional councils which have advised to the regional directors of the AEB to resolve the grievances in each region in same nature as the Council. Once a year, the representatives of central and regional councils meet to exchange their opinions. Both the central and regional council have successfully worked for the citizens and public administration.

Usually, the conference of the Council is held four times every year and two or three grievances are discussed at each conference. In addition to the grievances discussed at the conference, about sixty grievances, including grievances discussed in the regional councils, are tabled on the conference every year. Some grievances are resolved and mediated, or dismissed at the conference, but most of cases are carried over the next conference for further research or investigation. Concerning the grievances carried over, the Council requests the AEB to undertake investigation further, since the AEB has a lot of

experience and knowledge of public administration for long time, and has cooperated with the Council¹⁰.

The mechanism of administrative counseling of the AEB is shown in the figure I attached hereto.

Conclusion

As the socio-economic environment surrounding public administration is changing drastically in recent years, the citizens have various complaints and requests for the public information or service to the public administration. However, the citizens hesitate to submit complaint to the administrative agencies. The Administrative Counselors have been playing the role of bridge between the citizens and the administrative agencies by directly contacting the citizens and by reflecting voices of the citizens concerning the operation of public administration.

It is expected that noncompliance of the officials is to be discovered and corrected through resolution of disputes between the citizens and the administrative agencies and that the administrative counseling system, which is readily accessible, in free of charge, and without time limitation, can play a pivotal role for solution of disputes and complaints on the administrative matters, even if the problems could be settled through the judicial proceedings. Accordingly, the AEB has continuously maintained the administrative counseling system, even after the reform on the structure of the central government was made on January 6, 2001.

The administrative reform has been demanded and the Reform of Central Government Basic Act¹¹ was enacted in June, 1998. The main purpose of the reform is the reorganization of the structure of the central government in large scale. The number of the ministries and agencies was reduced from twenty-two to twelve ministries and agencies. Under the Reform Act, the all businesses of the Management and Coordinate Agency (MCA) were transferred to the newly established Ministry of Public Management, Home Affairs, Posts and Telecommunications which has the jurisdiction covering most of the jurisdiction of the MCA and Ministry of Home Affairs. As a result of the reform of the central government, the name of former “Administrative Inspection Bureau” was replaced by the “Administrative Evaluation Bureau” as of January 6, 2001.

¹⁰ A partial portion was cited from the speech of Mr. Takashi Mogushi,

Chairman of Administrative Grievance Resolution Promotion Council, , which was made at the Third Asian Ombudsman Conference held in Macao, in 1998.

¹¹ Basic Law on the Reform of Central Ministry and Agencies was enacted in the 142 Section of the National Diet in June, 1998.

Thereafter the administrative counseling system has been managed by the Administrative Evaluation Bureau in the Ministry of Public Management, Home Affairs, Post and Telecommunication¹².

¹² Tomichi Yagi, “Japan’s Central Government Reorganization”, Comparative Law Vol. 15, College of Law, Nihon University (1998).

APPENDIX *Case Studies*

The followings are some cases handled by the Administrative Counselors:

1. Guardrail

The guardrail which is located at the corner at an intersection was broken by a traffic accident, and the parts of the guardrail disappeared. It was requested by a citizen that the guardrail needs to be replaced urgently, because the road is used by elementary school children and traffic accidents are frequently happened at the intersection.

After the Administrative Counselor inspected the intersection, he made a report of the conditions of the intersection to the department of public works, Ward Office and requested to repair the guardrail. It was newly built at the same corner of the intersection as shown on the picture.

2. Employment condition

A person who is looking for a job on the internet, found on the home page of a company which has a labor condition that the male applicants are not permitted to have long hairs as a qualification to apply for the job, although the female applicants are so permitted.

This condition is invalid under the Equal Employment Act for Male and Female. This violation was notified to the company by the Labor Bureau of Tokyo Metropolitan Government. However, as the company has never corrected its condition, the above person informed the Administrative Counselor of this labor condition. After the Administrative Counselor reviewed this condition on the website of the company, he requested the Bureau of Labor to direct the company to improve the labor condition. The Bureau of Labor later reviewed and examined this condition again on the webpage of the company and found that the company kept the same labor condition. Then, the Bureau of Labor strongly directed the company to change the labor condition of “prohibition of long hairs for the male worker”. Thereafter, the company followed the direction of the Bureau and cancelled this labor condition.

3. Pension

The claim came from a Korean citizen. He used to work for Japanese company in Tokyo. After he had worked for several years, he resigned from the company and returned to Korea. He sent the pension note to Tokyo Social Insurance Office and withdrew from the pension plan. However, he did not

confirm remittance of withdrawal payment for him. He sent a notice that he wanted to meet with an officer of Tokyo Social Insurance Office when he visits Tokyo next time to ensure such payment to him.

The Administrative Counselor called Tokyo Social Insurance Office and inquired about the withdrawal payment. The Office replied to the Administrative Counselor that the Office received proposal of payment from the Korean citizen and has made the necessary procedures for the payment. The withdrawal payment is set on the schedule and must be remitted to the bank account designated by him. The Administrative Counselor informed the Korean citizen and solved his problem.

4. Street light

A local street was very dark, because there were a few street lights there. After the Administrative Counselor identified the situation of the street, he informed a local government about darkness of the street, and requested the local government to place additional street lights on the street. As a result of the provided information, the additional street lights were placed on the street and the street became lighter.

5. Traffic signal for pedestrians

The traffic signal for pedestrians cannot be clearly seen, since it was hindered by the other traffic signboard. The Administrative Counselor reported this situation to a local road maintenance office and requested them to move the traffic signboard downward. As a result, the local office lowered the traffic signboard, which enabled the pedestrians to easily see the traffic signal.

6. Dirty curve mirror

A curve-mirror stands on the street, but the driver cannot confirm the traffic conditions through the mirror, because the curve-mirror is very dirty. The Administrative Counselor reported the situation to a local police office and requested them to clean up the curve-mirror. The office immediately cleaned up the curve-mirror, and the drivers can confirm the traffic conditions through the cleaned curve-mirror.

7. A hole on the street

A woman found a big hole on a street that the school children use every day. She informed the Administrative Counselor of the situation. The Administrative Counselor reported the bad condition of the street to a local

road maintenance office and requested to repair the hole. They immediately took an action to repair the hole, so that the school children can safely walk on the street.