
China Issues New Labor Dispute Regulations

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Responding to the upsurge in workplace disputes in recent years, the Chinese government has issued new regulations to establish dispute resolution structures within the companies themselves. The Ministry of Human Resources and Social Security (MOHRSS), successor to the former Ministry of Labor, on November 30 promulgated Order No. 17, the Regulations on the Negotiation and Mediation of Enterprise Labor Disputes (企业劳动争议协商调解规定, the "Regulations"), effective January 1.

The Regulations require large- and medium-sized enterprises without regard to ownership to establish internal labor dispute mediation committees comprised of equal numbers of enterprise representatives and worker representatives to facilitate enterprise-worker communications, establish a mechanism to negotiate labor disputes, and enhance negotiations to resolve such disputes. The committees are to be guided in their work by their local MOHRSS bureau. The overall purpose is not just to resolve disputes after they arise, but to prevent issues from becoming disputes leading to the filing of a case with the local labor dispute arbitration commission or, although it is unstated, a strike or other mass protest.

The Regulations do not specify who can serve as members of the labor dispute mediation committees. No provision is made for selection of worker representatives, but it seems most likely that they will be selected from among leaders of the enterprise union or, if a union has not been formed, the workers council. The committees do not constitute a forum for collective bargaining. Mediation is voluntary. Workers who have a dispute with the enterprise may represent themselves or designate the union or a third party to represent them. A mediation agreement is not binding unless executed in writing by both parties. Once executed, it will be subject to verification but will not be reopened unless new evidence can be presented.

Large- and medium-sized foreign enterprises in China should quickly move to establish their own labor dispute mediation committees and formulate strategies for membership and procedural issues. As it is unclear how well the new structure may help to improve labor-management relations, enterprises should continue to rely on their HR policies and other means to manage labor-management relations proactively and minimize the potential for the occurrence of disputes.

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