

# Outline of the Bill Partially Amending the Private Schools Act

## Purpose

To Carry out reformation of the system to promote effective governance reforms that can respond to the society's demands in order that private schools, which support public education in Japan, will gain trust of the society and achieve further development.

In attempting to reflect the opinions of a wide-range of parties involved and to prevent deviated business execution, the provisions concerning the management and operation system of incorporated educational institutions such as the qualifications, the procedures of appointment and dismissal of the director, auditor, councilor and accounting auditor as well as the duties and operations of the board of directors and the council, and the penal provisions on aggravated breach of trust by directors, etc. are established.

## Outline

To sort out distribution of authorities among director vis-à-vis board of directors and auditor or councilor vis-à-vis council based on the idea of "**clarifying and separating the roles of execution and surveillance/supervision**" and to establish "**constructive cooperation and mutual-checking**" in accordance with the characteristics of private schools

### 1. Review of the management and operation system such as the qualifications, the procedures of appointment and dismissal of officers, etc. and the duties and operations of each body

#### ① director·board of directors

- A body to appoint directors is prescribed in the articles of endowment. In appointing directors, the body for appointment hears the opinions of the council in advance. (related to Article 29, Article 30)
- The board of directors elects its president. (related to Article 37)

#### ② auditor

- Appointment and dismissal of an auditor is carried out by a resolution of the council, the officers' next of kin are prohibited from assuming the post. (related to Articles 31, 45, 46 and 48)

#### ③ councilor·council

- Concurrently serving as a director and a councilor is prohibited and the minimum number of councilors is to surpass the number of directors. (related to Article 18, Article 31)
- An upper limit of the ratio of councilors elected by directors or a board of directors, or the ratio of the directors' and teachers' next of kin in proportion to the total number of councilors is to be set. (related to Article 62)
- The council is to be able to seek dismissal of a director by the body for appointment if it is not functioning, or to seek to suspend acts of a director and to demand that the auditor pursue the director's accountability if the auditor is not functioning. (related to Articles 33, 67, 140)

#### ④ accounting auditor

- Incorporated educational institution, etc. under the authority of competent minister responsible for establishing universities and colleges of technology institutionalize accounting audit by an accounting auditor and set up procedures of appointment and dismissal or disqualification requirements. (related to Articles 80 through 87, 144)

### 2. Review of the Desired State of Decision-making by Incorporated Educational Institution

- At incorporated educational institutions, etc. under the authority of competent minister, the matters relating to fundamental changes (such as voluntary dissolution or merger) or amendments to the articles of endowment (except for minor ones) are to require a resolution by the council in addition to the decision by the board of directors. (related to Article 150)

### 3. Miscellaneous

- Authority to audit subsidiaries is given to the auditor and accounting auditor. (related to Article 53, Article 86)
- Set up the provisions concerning accounting, information disclosure, litigation, etc. (related to Articles 101 through 107, Articles 137 through 142, Article 149, Article 151)
- Set up the penal provisions on aggravated breach of trust, unduly speculative transactions, bribery and obtaining approval through illegal means by officers, etc. (related to Articles 157 through 162)

## Effective Date·Transitional Measures

April 1, 2025 (Transitional measures will be taken for the composition of the council, etc.)

# 私立学校法の一部を改正する法律案の概要

## 趣旨

我が国の公教育を支える私立学校が、社会の信頼を得て、一層発展していくため、社会の要請に応え得る実効性のあるガバナンス改革を推進するための制度改正を行う。

幅広い関係者の意見の反映、逸脱した業務執行の防止を図るため、理事、監事、評議員及び会計監査人の資格、選任及び解任の手續等並びに理事会及び評議員会の職務及び運営等の学校法人の管理運営制度に関する規定や、理事等の特別背任罪等の罰則について定める。

## 概要

「**執行と監視・監督の役割の明確化・分離**」の考え方から、理事・理事会、監事及び評議員・評議員会の権限分配を整理し、私立学校の特性に応じた形で「**建設的な協働と相互けん制**」を確立。

### 1. 役員等の資格・選解任の手續等と各機関の職務・運営等の管理運営制度の見直し

#### ①理事・理事会

- 理事選任機関を寄附行為で定める。理事の選任に当たって、理事選任機関はあらかじめ評議員会の意見を聴くこととする。 (第29条、第30条関係)
- 理事長の選定は理事会で行う。 (第37条関係)

#### ②監事

- 監事の選解任は評議員会の決議によって行い、役員近親者の就任を禁止する。 (第31条、第45条、第46条、第48条関係)

#### ③評議員・評議員会

- 理事と評議員の兼職を禁止し、評議員の下限定数は、理事の定数を超える数まで引き下げる。 (第18条、第31条関係)
- 理事・理事会により選任される評議員の割合や、評議員の総数に占める役員近親者及び教職員等の割合に一定の上限を設ける。 (第62条関係)
- 評議員会は、選任機関が機能しない場合に理事の解任を選任機関に求めたり、監事が機能しない場合に理事の行為の差止請求・責任追及を監事に求めたりすることができることとする。 (第33条、第67条、第140条関係)

#### ④会計監査人

- 大学・高等専門学校を設置する大臣所轄学校法人等では、会計監査人による会計監査を制度化し、その選解任の手續や欠格要件等を定める。 (第80条～第87条、第144条関係)

### 2. 学校法人の意思決定の在り方の見直し

- 大臣所轄学校法人等においては、学校法人の基礎的変更に係る事項（任意解散・合併）及び寄附行為の変更（軽微な変更を除く。）につき、理事会の決定に加えて評議員会の決議を要することとする。 (第150条関係)

### 3. その他

- 監事・会計監査人に子法人の調査権限を付与する。 (第53条、第86条関係)
- 会計、情報公開、訴訟等に関する規定を整備する。 (第101条～第107条、第137条～第142条、第149条、第151条関係)
- 役員等による特別背任、目的外の投機取引、贈収賄及び不正手段での認可取得についての罰則を整備する。 (第157条～第162条関係)

## 施行日・経過措置

令和7年4月1日（評議員会の構成等については経過措置を設ける）