

# What Mediation Means in China

by Xia Quing (Nicole)

**M**ediation, as an important measure to resolve disputes out of court, is practiced in many countries. In my mind, Mediation is an effort by a third party to encourage parties to a dispute to voluntarily reach an agreement to resolve their dispute. I have done some research, and I found that, different from America, there are currently four types of mediation practices in China. They are civil mediation, judicial mediation, administrative mediation and arbitration mediation.

Civil mediation means mediation by People's Mediation Committees outside the court.

Judicial mediation means mediation by a court of law in civil and economic disputes and minor criminal cases inside the court. For marital cases inside-court mediation is a required procedure. For other cases, mediation is not a required procedure. Whether or not to seek judicial mediation is for litigants to decide, but a court's mediation document is as valid as its verdict.

Administrative mediation can be outside-the-court mediation by grassroots governments such as a township government in ordinary civil disputes, or outside-the-court mediation by government departments in compliance with legal provisions in specific civil disputes, economic disputes or labor disputes.

Arbitration mediation is conducted by arbitration bodies, similar to arbitration in America. Arbitration is called upon only if mediation fails to resolve the differences. This is also an outside-the-court process.

Although we have clear types and definitions here, to be honest, I can't agree that mediation has played such an important part in China. Most of the time, I just can't believe that we can use mediation to completely resolve cases. Just to name one reason – we even don't have “mediators” or “negotiators” in our country and system. But from TMG's exchange program I have found so many reasons to choose mediation: for its low price, convenience, peace, efficiency and so on. Why can't we just try this mood in China? During the whole program, we kept on talking about this question. Nangle, Puwei and I all unfortunately found that we cannot just move American-Mediation directly into China, because of the cultural issues, government and political problems. But we all believe that we have the power to do something different (just as David said in the past). Now that I am working as a Chinese lawyer in China, I will pay attention and try to use the mediation or negotiation skills which I learned or observed in the U.S. during my work. ■



## HOST-IT NOTE:

**Ellen Wade** (Wade Horowitz LaPointe):

*“It was the highlight of my week. I loved talking with them. They were very interested in the work I do and very eager to share their plans for their own careers. They made me very hopeful about China in general. I know it's a small sample, but their keen interest in making the world a better place for all was very inspiring.”*

