People’s Mediation Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — People's Mediation Committees 2

Chapter III — People's Mediators 3

Chapter IV — Mediation Procedures 3

Chapter V — Mediation Agreements 4

Chapter VI — Supplementary Provisions 5

Adopted at the 16th Meeting of the Standing Committee of the Eleventh National People's Congress on August 28, 2010
Effective: January 1, 2011

Table of Contents

- Chapter I — General Provisions
- Chapter II — People's Mediation Committees
- Chapter III — People's Mediators
- Chapter IV — Mediation Procedures
- Chapter V — Mediation Agreements
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of improving the people's mediation system, regulating people's mediation activities, promptly resolving civil disputes, promoting social harmony and stability, and advancing the construction of a harmonious socialist society.

Article 2 — For the purposes of this Law, "people's mediation" refers to the activities by which people's mediation committees, through persuasion, counseling, and other methods, facilitate the parties to a dispute to reach a mediation agreement on the basis of equal consultation and voluntary participation, thereby resolving civil disputes.

Article 3 — People's mediation committees shall, in mediating civil disputes, adhere to the following principles: (1) mediating on the basis of the free will and equal status of the parties; (2) not violating the provisions of laws, regulations, or state policies; and (3) respecting the rights of the parties, and not preventing the parties from safeguarding their rights through litigation, arbitration, administrative

Source: https://www.danyoungcpa.com/peoples-mediation-law-prc-2010/

adjudication, or other means in accordance with the law.

Article 4 — People's mediation committees shall not charge any fees for mediating civil disputes.

Article 5 — The judicial administrative department of the State Council shall be responsible for guiding the people's mediation work nationwide. The judicial administrative departments of local people's governments at or above the county level shall be responsible for guiding the people's mediation work within their respective administrative regions. Basic-level people's courts shall provide operational guidance to people's mediation committees in mediating civil disputes.

Article 6 — The state shall encourage and support people's mediation work. Local people's governments at or above the county level shall provide necessary support and safeguard for people's mediation work. People's mediation committees and people's mediators that have achieved outstanding results shall be commended and rewarded in accordance with state regulations.

Chapter II — People's Mediation Committees

Article 7 — People's mediation committees are mass-based organizations legally established to mediate civil disputes. People's mediation committees may take the form of villagers' committee people's mediation committees, residents' committee people's mediation committees, township or sub-district people's mediation committees, enterprise or public institution people's mediation committees, and specialized or industry-based people's mediation committees. Villagers' committees and residents' committees shall establish people's mediation committees. Enterprises and public institutions may establish people's mediation committees as needed.

Article 8 — A villagers' committee or residents' committee people's mediation committee shall be composed of three to nine members, including a chairperson and, when necessary, one or more vice-chairpersons. The election or replacement of members of a villagers' committee or residents' committee people's mediation committee shall be conducted by the villagers' meeting, villagers' representative meeting, residents' meeting, or residents' representative meeting.

Article 9 — A township or sub-district people's mediation committee shall be composed of three to nine members, including a chairperson and, when necessary, one or more vice-chairpersons. The members shall be appointed by the township or sub-district people's government in consultation with representatives from the local people's courts, police stations, judicial offices, and relevant departments and organizations.

Article 10 — An enterprise or public institution people's mediation committee shall be composed of three to nine members, including a chairperson and, when necessary, one or more vice-chairpersons. The members shall be elected by the employees' congress, employees' general meeting, or trade union organization.

Article 11 — A people's mediation committee shall include women members in its composition, and ethnic minority members shall be included as appropriate in areas where multiple ethnic groups reside.

Article 12 — Members of a people's mediation committee shall serve a term of three years and may serve consecutive terms if re-elected. Members who lose their position due to reasons such as job changes shall be replaced or by-elected in a timely manner.

Article 13 — People's mediation committees shall establish and improve working systems including post responsibility, study and training, statistical reporting, and file management, and shall strengthen the standardization of mediation work.

Article 14 — A people's mediation committee shall, within 30 days from the date of its establishment, submit its name, list of members, and other information to the judicial administrative department of the local people's government at the county level for record filing.

Source: https://www.danyoungcpa.com/peoples-mediation-law-prc-2010/

Article 15 — The judicial administrative departments of local people's governments at or above the county level shall periodically train people's mediators.

Chapter III — People's Mediators

Article 16 — People's mediators shall be adult citizens who are impartial, fair-minded, dedicated to people's mediation work, enthusiastic about public welfare, and possess a certain level of education, policy understanding, and legal knowledge. The judicial administrative departments of local people's governments at the county level shall conduct statistics on and record the people's mediators within their respective administrative regions.

Article 17 — People's mediators shall hold a certificate issued by the judicial administrative department when conducting mediation activities. The format of the certificate shall be uniformly prescribed by the judicial administrative department of the State Council.

Article 18 — People's mediators shall perform the following duties: (1) mediating civil disputes and preventing the escalation of disputes; (2) conducting education on the rule of law and promoting compliance with laws and social morality; (3) reflecting the opinions and suggestions of the public to villagers' committees or residents' committees and the local people's governments; and (4) reporting mediation work and keeping mediation work records.

Article 19 — People's mediators shall, in mediating disputes, adhere to principles, be fair and decent, enforce the law impartially, and not accept or demand property from parties, nor seek personal gain.

Article 20 — People's mediators may receive subsidies for engaging in mediation work, and the channels and standards for subsidies shall be determined by the judicial administrative departments of local people's governments at or above the county level in conjunction with the finance departments at the same level. Where a people's mediator is injured or disabled or dies as a result of mediation work, the local people's government shall provide necessary medical and living assistance; their spouse and children shall enjoy state-prescribed pensions and preferential treatment.

Chapter IV — Mediation Procedures

Article 21 — Where a party applies for mediation of a civil dispute, the application may be made orally or in writing. A party may apply for mediation to the people's mediation committee at the place where the party is located, the place where the dispute occurred, or a location convenient for mediation. The people's mediation committee shall mediate a dispute in accordance with the law upon application by the parties, and may also take the initiative to mediate a dispute; however, where a party clearly refuses mediation, mediation shall not be conducted.

Article 22 — Where a basic-level people's court or public security organ refers a civil dispute suitable for resolution through people's mediation to a people's mediation committee for mediation before acceptance, the people's mediation committee shall mediate the dispute promptly. Where mediation fails, the rights of the parties to seek resolution through litigation in accordance with the law shall be protected.

Article 23 — The parties shall enjoy the following rights in the course of people's mediation activities: (1) choosing or accepting people's mediators; (2) accepting, refusing, or terminating mediation; (3) requesting that the mediation be conducted in public or not in public; (4) expressing their will and reaching a mediation agreement of their own free will; and (5) other rights provided by law.

Article 24 — The parties shall perform the following obligations in the course of people's mediation activities: (1) truthfully stating the facts of the dispute; (2) complying with the on-site mediation order and respecting the people's mediator; (3) respecting the exercise of rights by the opposing party; and (4) other obligations provided by law.

Article 25 — A people's mediator shall, when mediating a dispute, adhere to the principles of legality, reasonableness, and voluntariness, fully listen to the statements of the parties, explain relevant laws, regulations, and state policies, and conduct patient persuasion and counseling to facilitate the parties to reach a mediation agreement on the basis of equal consultation and voluntary participation.

Article 26 — A people's mediator shall, in mediating a dispute, maintain fairness and neutrality and shall not favor either party. Where a people's mediator has an interest in a party to the dispute or in the dispute that may affect fair mediation, the mediator shall withdraw; the people's mediation committee may also decide that the mediator withdraw based on an application by a party.

Article 27 — A people's mediator may, as needed for mediation, solicit opinions from the parties and visit and investigate the facts of the dispute. The relevant entities and individuals shall provide cooperation and assistance.

Article 28 — A people's mediator may, as needed for mediation, invite the relatives, neighbors, and colleagues of the parties, as well as persons with specialized knowledge and experience or relevant social organizations, to participate in the mediation. People's mediation committees shall support the participation of local people with integrity and prestige in mediation work.

Article 29 — A people's mediation committee shall mediate a dispute in a timely manner and settle it on the spot whenever possible. Where on-the-spot settlement is not possible, the mediation shall be completed within a reasonable period of time, generally not exceeding 30 working days from the date of acceptance. Where the dispute is complex or involves cross-regional issues, the mediation period may be appropriately extended, but the extension shall not exceed 30 working days.

Article 30 — People's mediation committees shall make records of the mediation of disputes. A record shall state the names of the parties, the dispute matter, the mediation process, and the result of the mediation, and shall be signed or sealed by the parties and the mediator. The record shall be retained by the people's mediation committee.

Article 31 — Where, in the course of mediating a dispute, a people's mediator discovers that the dispute may escalate into a serious incident, the mediator shall take targeted preventive measures; where the situation is urgent, the mediator shall promptly report to the local public security organ or other relevant departments.

Chapter V — Mediation Agreements

Article 32 — Where the parties reach a mediation agreement through the mediation of a people's mediation committee, the agreement may be made orally or in writing. A written mediation agreement shall be prepared. In the case of an oral agreement, the people's mediator shall record the content of the agreement. A written mediation agreement shall set forth the following matters: (1) the basic information of the parties; (2) the main facts of the dispute, the dispute matter, and the liabilities of the parties; (3) the content of the agreement reached by the parties, the method of performance, and the time limit for performance; and (4) other matters. A written mediation agreement shall take effect upon the parties' signing or affixing their seals and the people's mediator's signing and the people's mediation committee's affixing its seal. Each party shall retain one copy, and the people's mediation committee shall retain one copy.

Article 33 — The parties shall perform the mediation agreement in accordance with the agreement. Where a party fails to perform the mediation agreement or there is a dispute during performance, the people's mediation committee shall persuade and counsel the party to perform. Where the parties apply to the people's court for judicial confirmation of the mediation agreement within 30 days from the date the mediation agreement takes effect, and the people's court confirms the validity of the mediation agreement in accordance with the law, a party may apply to the people's court for compulsory enforcement if the other party refuses to perform or fails to fully perform the agreement. Where the people's court does not confirm the validity of the mediation agreement in accordance with the law, the parties may change the original

mediation agreement or reach a new mediation agreement through people's mediation, or may bring a lawsuit in the people's court.

Article 34 — A people's mediation committee shall conduct a follow-up visit to the performance of the mediation agreement and urge the parties to perform the agreed obligations. Where the parties still fail to perform the mediation agreement after persuasion and counseling, the people's mediation committee shall inform the parties of their right to apply for arbitration, administrative adjudication, or bring a lawsuit in the people's court in accordance with the law.

Chapter VI — Supplementary Provisions

Article 35 — This Law shall come into force on January 1, 2011.

Disclaimer: This English translation is provided for informational and reference purposes only. While every effort has been made to ensure accuracy, this is not an official translation. The original Chinese text adopted by the Standing Committee of the National People's Congress of the People's Republic of China shall prevail as the authoritative version. Readers should consult qualified legal professionals for advice on specific legal matters. Dan Young Business Consultancy makes no warranty, express or implied, regarding the accuracy, completeness, or fitness for a particular purpose of this translation.