



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

**Updates Related to Coronavirus (COVID-19)  
Office of Dispute Resolution (ODR) Guidance  
Individuals with Disabilities Education Act (IDEA)  
Special Education Due Process and Alternative Dispute Part B and C Proceedings  
Updated June 30, 2020**

**Background**

As a part of the District of Columbia's response to coronavirus (COVID-19), the Office of Dispute Resolution (ODR) within the Office of the State Superintendent of Education (OSSE) is modifying, updating and re-circulating certain policies.

**Scope**

This document contains details and guidance specifically relating to the continuation of dispute resolution proceedings and to further the provision of dispute resolution services, and some Frequently Asked Questions (FAQ's).

**Effective Date**

This guidance took effect on March 16, 2020 and will remain in effect until further notice. All provisions contained in the federal IDEA (20 U.S.C. §1400, *et seq*), relevant and applicable IDEA regulations (34 CFR §300.500 *et seq.*, relevant and applicable portions of the District of Columbia Municipal Regulations (DCMR) (5E DCMR §3000, *et seq.*) ODR's Standard Operating Procedures (SOP), as well as any guidance issued by the US Department of Education remain in full force and effect.

**Procedural Guidance**

In the event of a prolonged temporary transition of ODR to fully remote telework, the following provisions will come into effect to provide continuation of services and ODR operations for those parties involved, or to be involved, in the dispute resolution processes.

**1. Documents**

**A. Intake – Case Filing**

While operating in a fully remote telework status, ODR will continue to accept documents and submissions from all parties in electronic format. These documents may be provided via eFax at (202) 478-2956, or via e-mail [hearing.office@dc.gov](mailto:hearing.office@dc.gov), as attachments or through a direct link. Electronic documents will not be accepted from third-party host services (such as Dropbox, or similar services), or any service which requires creation of an account to access.

Hard-copies (documents in any physical format) of documents cannot be accepted by the ODR main office, (1050 First St. NE). Should an Impartial Hearing Officer (IHO) require a five-day disclosure in hard-copy format, methods for submission of such

documents shall be determined between the parties and the assigned IHO.

## **B. Provision of Documents**

Documents, heretofore provided by ODR in hard-copy, shall be provided in electronic format via e-mail, either as attachments or through a direct link. Regarding those documents for which a hard-copy has been requested, provision in the format of choice will also be provided upon transition from fully remote telework to normal office operations.

## **2. Meetings**

The ODR main office is unavailable to host physical meetings. Below, please find guidance for continued provision of services for each type of dispute resolution meeting.

### **A. Prehearing Conferences**

Prehearing conferences shall be scheduled and held in a remote manner agreeable to all parties and the IHO, and in compliance with IDEA regulations. Should a party wish to have the prehearing conference recorded, a request can be submitted to the IHO to be fulfilled at their discretion. ODR will not transcribe any audio recordings of proceedings made using outside recording devices (such as cell phone recordings, personal recorders, or similar devices).

### **B. Due Process Hearings**

Remotely recorded teleconferencing, or video conferencing, is available for any scheduled due process hearings. Provision of a conference bridge phone number and access code in the case of a teleconference, or link to a Microsoft Teams Meeting in the case of a video conference, shall be made to parties by the IHO assigned to the case. Should parties not wish to pursue either option, cases must either be continued or voluntarily dismissed, (and, if desired, re-filed), to comply with IDEA guidelines.

### **C. Mediations/Facilitations**

Remote teleconferencing, or video conferencing, is available for mediations and facilitations. Should the mediation/facilitation be scheduled to take place in a location offsite from OSSE headquarters, it may continue as scheduled, provided the arrangement is agreeable to all parties and the assigned mediator/facilitator.

## **Questions?**

If you have questions pertaining to a specific hearing/mediation/facilitation to which you are a party, please contact the assigned IHO/mediator/facilitator using the contact information provided at their assignment.

## REMOTE PROCEEDINGS

Due to the coronavirus (COVID-19) concerns, ODR procedures have been modified. ODR continues to be operational with staff working remotely. As of the date of this Guidance, OSSE's physical headquarters located at 1050 First St. NE remains closed to the public and there are limited mailroom operations. In light of the modified operational status, we are asking that parents and LEA's communicate with ODR electronically via email ([hearing.office@dc.gov](mailto:hearing.office@dc.gov)) or eFax (202) 478-2956, where possible. If you need to call the main office line (202) 698-3819 you may do so during normal business hours, Monday-Friday (8:30 a.m. – 5 p.m.). ODR will continue, per usual practice, to efficiently retrieve all filing documents and requests as relate to mediation and due process matters and process them in a timely manner. Please note that these procedures were created in response to coronavirus (COVID-19) restrictions and the agency will consider extending these procedures after termination of the public emergency.

There have been no updated timeline waivers for Special Education Dispute Hearings and mediations, pursuant to the Individuals with Disabilities Act IDEA (20 U.S.C. § 1415(f)). Due to the coronavirus (Covid-19) pandemic, ODR has outlined new procedures to maintain compliance with IDEA when conducting Due Process Hearings and Mediation Meetings. ODR will hold teleconferenced or video-conferenced Due Process Hearings and Mediation Meetings and asks all Parents/Parent Attorneys, local education agency's (LEA's)/LEA Attorneys, and other individuals involved to adhere to the following procedures until further notice.

NOTE: For answers to the most commonly asked questions, please see the **FAQs** page for the Teleconferenced/Video-conferenced mediations, Prehearing Conferences and Due Process Hearings.

### 1. Teleconferenced/Video-Conferenced Meetings

Meetings may proceed with several options depending on the circumstances of the case. ODR may conduct meetings by videoconference (audio and video participation) and/or, in the case of mediations and Prehearing Conferences, teleconference (audio participation only), unless by special order. The information in this section provides resources for parties to be able to fully participate in this new process. ODR will use Microsoft Teams to conduct its video-conferenced meetings, and dedicated conference bridges to conduct its teleconferenced meetings. For more information on the entirety of this process, please see below.

NOTE: This is an example of how a process may look. The assigned Mediator/Impartial Hearing Officer (IHO) will provide you with detailed specifics on what to expect during your meeting.

## **A. Before the Meeting**

### **1) Before a Mediation Meeting**

Provide your Mediator with any updated or changed email addresses and/or direct telephone numbers for the attorney/advocate and all clients participating in the mediation, no later than 24 hours before the scheduled mediation.

### **2) Before a Prehearing Conference**

Prior to a Prehearing Conference, the parties will determine, with the assigned IHO, if the meeting is to be conducted via teleconference or video conference, and if it is to be recorded.

## **B. Joining the Meeting**

ODR is using the Microsoft Teams conferencing platform to host video-conferenced meetings and dedicated conference bridges to host teleconferenced meetings. Microsoft Teams provides audio/video conferencing, but does not allow participants to dial in to a meeting. You will not have to purchase any products to participate in a meeting hosted by Microsoft Teams or conducted via a conference bridge. The parties are encouraged to download the Microsoft Teams application and conduct a test accessing Microsoft Teams before their scheduled videoconference. If you have not previously used the Microsoft Teams platform and you wish to familiarize yourself with the technology, further instruction is listed in **Appendix A**.

## **C. The Pre-Session**

The meeting will start with a short pre-session where technology may be tested to make sure it is working properly. Parties will also be informed of confidentiality regulations.

### **1) Confidentiality**

If a teleconferenced/video-conferenced mediation, Prehearing Conference, due process or other proceeding will potentially involve discussing personally identifiable information contained within the student's educational records, then the Mediator/IHO, Attorney and all others participating in the proceeding shall take the necessary precautions to ensure that others in their household or other computer location do not overhear the conversation before participating in a teleconferenced/video-conferenced proceeding. Headphones should be considered to ensure that others may not overhear the proceedings.

### **A) Mediation Confidentiality**

The Mediator will have all participants sign the "Agreement to Mediate Confidentiality Pledge" document (this document will be provided by the Mediator). The same confidentiality rules will apply to teleconferenced or video-conferenced mediations that apply to in-person mediations. There will be no video or audio recording of any mediation processes under any circumstances. The parties may not copy documents by any means, including by cell phone photograph, without the express permission of all parties to the mediation.

### **B) Hearing Confidentiality**

Parties are prohibited from recording any proceeding. The videoconference hearing will remain confidential unless otherwise ordered. The audio recording made by the IHO will continue to be the official record. If a parent or student wishes to have an open hearing, an audio recording of the hearing can be made available once a signed Records Request Form has been submitted to ODR.

### **D. Mediation Meeting/Due Process Hearing**

The Mediation Meeting/Due Process Hearing will be conducted in the same manner as an in-person Mediation Meeting/Due Process Hearing.

If you need to communicate any information regarding your case, or if you have any questions, contact your Mediator/IHO.

## **FREQUENTLY ASKED QUESTIONS (FAQs)**

Due to the coronavirus (COVID-19) pandemic and the continuation of providing timely services pursuant to the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1415(f)) and the implementing regulations found at (34 CFR §§ 300.500 et seq.), the Office of Dispute Resolution (ODR) has incorporated a virtual process for Due Process Hearings and related services to include mediations. ODR is empowered to conduct all or part of a Due Process Hearing, held under the IDEA, by teleconference, videoconference, or other electronic means, provided that each participant in the hearing has an opportunity to fully participate in the entire proceeding and to view or have access to any exhibits offered into the record.

### **Q1. What if I have already filed a due process complaint? Will the District still have to comply with the timeline?**

Yes, to the extent possible both resolution sessions and Due Process Hearings are expected to proceed through virtual (video or telephonic means) with the mutual consent and participation of all parties within the time-frames prescribed by the applicable provisions of the IDEA and its implementing regulations. Reasonable continuances requested will be considered by the Impartial Hearing Officer (IHO).

### **Q2. How will I connect to a remote hearing/mediation?**

ODR is using Microsoft Teams to hold the video-conferenced Prehearing Conferences, Due Process Hearings and mediations. All participants must be in a quiet, private location unless otherwise ordered. All participants will be required to connect to the Microsoft Teams meetings by computer or smartphone (with video capabilities) and appear in the videoconference using a webcam unless they do not have the required computer equipment. In that situation, at the IHO's discretion, parties may be permitted to appear using Microsoft Teams by audio-only, or by telephone.

### **Q3. May I opt out of a remote hearing?**

Parties will not have the option to "opt-out" of proceeding to a hearing. A Due Process Hearing must be conducted, and a decision rendered within 45 days of the end of the resolution period unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); 5-E DCMR § 3030.11; 5-E DCMR § 3030.12). Parties are encouraged to request mediation to attempt to resolve their dispute before hearing.

### **Q4. May I request a continuance?**

The assigned IHO will consider timely and written continuance requests from parties on the basis of good cause shown. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. The IHO may consider these and other bases for good cause if supported by a declaration. (SOP Sect. 710)

**Q5. Do I still have a right to have an attorney?**

Parties will, as usual, have the right at the Due Process Hearing to be represented and advised by an attorney. If a party wants to have individuals who are not active members of the District of Columbia Bar, with special knowledge or training relating to the child with special needs, to advise them during the hearing, the IHO will provide the conditions for that person's participation at the mediation, Prehearing Conference and hearing. (SOP Sects. 401(B), 702; D.C. Ct. Appeals Rule 49(c)(4))

**Q6. How do I arrange for witnesses at the hearing?**

Parties will continue to have the right to confront and cross-examine witnesses. (SOP Sect. 409(C)) The IHO will discuss the scheduling and appearance of witnesses at the Prehearing Conference and on each day of the hearing. All witnesses will be required to connect to the Teams meeting by computer or smartphone device (with video capabilities) and appear by videoconference using a webcam unless they do not have the required computer equipment. In that situation, at the IHO's discretion, witnesses may be permitted to appear using Teams by audio-only, or by telephone. Parties who want to compel the appearance of a witness may contact the IHO. For a copy of the Notice to Appear Request Form please visit ODR's webpage. [osse.dc.gov/service/office-dispute-resolution-odr](https://osse.dc.gov/service/office-dispute-resolution-odr)

**Q7. Will the videoconference hearing be confidential?**

Parties are prohibited from video recording the hearing. The videoconference hearing will remain confidential unless otherwise ordered. The audio recording made by the IHO will continue to be the official record. The parties may request a copy of the audio-recorded hearing. If a parent or student wished to have an open hearing, an audio recording of the hearing will be made available at the end of the proceeding upon request. For a copy of the Records Request form please visit ODR's webpage. [osse.dc.gov/service/office-dispute-resolution-odr](https://osse.dc.gov/service/office-dispute-resolution-odr)

**Q8. What about confidentiality issues (e.g., FERPA) if teachers and/or related service providers participate in a virtual proceeding and a spouse or other children were to walk by or overhear the proceeding?**

If a virtual mediation, Prehearing Conference, Due Process Hearing or other proceedings will potentially involve discussing personally identifiable information contained within the student's educational records, then the Mediator/Facilitator, IHO, Attorney and all others participating in the proceeding should take the necessary precautions, such as wearing headphones, to ensure that others in their household or computer access location do not overhear the conversation before participating in a virtual proceeding.

**Q9. How will I communicate with my attorney or client during the hearing?**

Attorneys may arrange, at their sole discretion, for their client to attend the hearing in the same location as the attorney. The client and the attorney must each have the required equipment to participate separately; however, if, in the same location, they may share the use of required equipment. Otherwise, where an attorney and client appear for a videoconference hearing from different locations, the attorney and client may be provided a virtual break out room to have

confidential communications, or the attorney and client can communicate by other means, which can be utilized throughout the hearing, at the discretion of the IHO.

**Q10. What if a party or witness requires the assistance of an interpreter during a hearing/mediation?**

ODR will continue to provide interpreters/translators for those participants who require such services. These interpreters will appear either by videoconference or via telephone. Please submit any request for interpreter/translation services by email to the IHO and copy ODR. If services have been scheduled and no longer needed, please alert the IHO immediately.

**Q11. Will I be able to introduce, offer and admit exhibits into the official hearing record, including for purposes of refreshing recollections, rebuttal or impeachment?**

Yes. The parties may be required to upload their exhibits electronically or mail exhibits as set forth in the Prehearing Conference Order. The IHO will address the issue of exhibits offered for the purposes of refreshing recollection, rebuttal or impeachment on a case by case basis if and when such are raised at the hearing.

**Q12. Will I still be able to request a Facilitator to appear at my Resolution Session Meeting (RSM) or Individualized Education Program (IEP) Meeting?**

Yes. You may still submit your request for a Facilitator to facilitate your meeting. Please be mindful that Facilitation is *optional* and **both** parties must agree for ODR to assign a Facilitator to your meeting. The IEP and RSM are processes that are managed by the LEA and alternative meeting guidance will come directly from the LEA. You may access the District of Columbia Public Schools or the Public Charter School Board websites to obtain additional information.

**Q13. Will I be able to request a transcribed copy of the recorded video-conferenced Mediation Meeting, Prehearing Conference, or Due Process Hearing?**

- **Hearing:** Yes, parties will continue to have the right to request a free transcribed copy OR audio copy of the hearing. Parties may submit a completed signed “Records Request Form” to ODR via fax (202) 478-2956 or email your request to [hearing.office@dc.gov](mailto:hearing.office@dc.gov). To obtain a fillable copy of the “Records Request Form” please visit: [osse.dc.gov/service/office-dispute-resolution-odr](https://osse.dc.gov/service/office-dispute-resolution-odr)
- **Prehearing Conference:** Yes, if the meeting is recorded. Prehearing Conferences are not generally recorded. However, there are circumstances where all parties, including the IHO, find it necessary to record. In these cases, *only* the audio copy of the conference will be available. You may find a fillable copy of the Record Request Form here: [osse.dc.gov/service/office-dispute-resolution-odr](https://osse.dc.gov/service/office-dispute-resolution-odr) Requests for copies of the “video” portion of a meeting or hearing will be denied.
- **Mediation Meeting:** No, to protect the confidentiality of the meeting, Mediation Meetings are prohibited from being recorded, therefore requests for audio or transcriptions are not needed and any request received will be denied.



If you have other questions, please contact:

<b>ODR Contact</b>	<b>Contact</b>	<b>Responsibilities</b>
<b>Carlynn Fuller</b> Director of Student Hearings Carlynn.Fuller@dc.gov	(202) 698-3819	Program Policy and Compliance
<b>Pamela Brown</b> Deputy Director of Student Hearings Pamela.brown4@dc.gov	(202)481-3437	Program Operations, Budget, and Procurement
<b>James Catlin</b> Program Specialist James.Catlin@dc.gov	(202) 698-3819	Front Office, ADR Coordinator, and Audio Recording Technical Support
<b>Tawanda Owens</b> Docketing Analyst Tawanda.Owens@dc.gov	(202) 304-7211	System Administrator, Data, Records, and Reports

ODR encourages all parties to review and monitor reliable sources of information related to coronavirus (COVID-19). Below are links you may find helpful:

Government of the District of Columbia – [coronavirus.dc.gov](https://coronavirus.dc.gov)  
 United States Department of Education [ed.gov/coronavirus](https://ed.gov/coronavirus)

## APPENDIX A

### 1. **Joining a Videoconference (Mediation, Prehearing Conference, Due Process Hearing)**

Joining a video-conferenced meeting will require use of a computer/tablet/smartphone, or other device, with a camera, speaker, microphone and internet capability. Participants shall appear in the meeting from a location free from distractions. The participants should make reasonable efforts to minimize background noise and maintain adequate room lighting. Use of virtual background images is at the discretion of the Mediator/IHO. Once the meeting is scheduled, the Mediator/IHO will send the participants an invitation, via email, containing a link to join the meeting. In some cases, the participants may be able to see the email addresses for other participants. The meeting invitations are intended for the sole purpose of connecting parties to the meeting at the scheduled time. Replies should not be sent to invitation emails. The meeting invitations will be:

#### **A. Mediation Meeting/Hearing**

This will be the "joint room" where all parties and the Mediator/IHO will be able to meet together. At the scheduled time for the meeting, click on "Join Microsoft Teams Meeting" in the invitation sent by the Mediator/IHO. If you have not downloaded the MS Teams application in the past, a new screen will open in your browser inviting you to do so. Once the software has been downloaded you will click on the download item to open the software. This will automatically connect you to the meeting. Enter your first and last name where indicated. You will see a message informing you that you will be allowed to enter the meeting shortly. The Mediator/IHO will open the meeting to you. You will join the Mediation Meeting/Hearing first and the Mediator will work to ensure that all parties can then access and move between the Mediation Meeting and their own Caucus Meeting/Breakout Room, should the situation call for it.

#### **1) Rooms for Individual Parties**

These will be the private meeting "rooms" for parties and their representatives to meet.

#### **A. Caucus Meeting**

In the case of a mediation, each party will receive an invitation to their own private Caucus Meeting in addition to the Mediation Meeting. There may be instances when the Caucus Meeting invitations are not sent to the parties until all parties have joined the Mediation Meeting. The Mediator may or may not be in the Caucus Meeting through the course of the mediation. The Mediator will be using the computer software to move from the joint meeting to individual discussions in the separate caucus meetings. *Ex Parte*

communication with a Mediator is permissible, unlike during a Due Process Hearing where such communication is not permissible with an IHO.

## **B. Breakout Room**

In the case of a Due Process Hearing, parties may receive an invitation to an individual Breakout Rooms after requesting them from the IHO, and at the IHO's discretion, but the IHO will not enter these Breakout Rooms to avoid *Ex Parte* communication.

NOTE: Meeting invitations should not be forwarded to other parties unless explicit permission has been granted by the Mediator/IHO. If you feel that additional parties or persons should be involved in the meeting, please contact your assigned Mediator/IHO.

### **2. Joining a Teleconference (Mediation and Prehearing Conference)**

If joining a meeting by telephone only, your Mediator/IHO will contact you to provide the call-in number(s) and, if necessary, the Conference ID numbers you will need for your meeting.

In the case of a mediation, you will receive information for the joint Mediation Meeting as well as for any private Caucus Meeting to be used, and, at the scheduled time, you will call into the Mediation Meeting first. Upon calling the number, you will hear a welcome message and be instructed to enter the Conference ID number, followed by the pound (#) sign. You will then be prompted to record your name, then press pound again. Your recorded name will be played when you join the meeting to alert others that you have joined. The Mediator will work with the parties to determine the most efficient means of connecting with each side individually and for joint discussions.

### **Helpful Suggestions:**

1. To avoid connection failure, it is recommended that you directly connect your device with an Ethernet cable for a videoconference. If that option is not available, you may want to get as close as possible to your wireless router to receive the best connection.
2. For quick multitasking, it may be helpful to use multiple devices such as your laptop and cell phone, or two laptops/computer monitors to access and review documents while continuing to maintain attention to the IHO and other participants in the meeting.
3. It may be helpful for participants and witnesses to have some familiarity with programs such as Microsoft Word and Adobe Acrobat. You may want to download any free viewing applications for you to access documents that are saved in those formats.
4. It may be helpful to review tutorials in advance of the scheduled videoconference to avoid any delays accessing the meeting. Things to make note of:

- A. Free account signup, application download on devices you are using
  - B. Screen sharing to share any documents
  - C. Mute, volume, video, and speaker options
  - D. Accessing breakout room
5. General Microsoft Teams tutorials can be found at the following links:
- A. Microsoft's "How to Join a Teams Meeting" at [support.office.com/en-us/article/join-a-teams-meeting-078e9868-f1aa-4414-8bb9-ee88e9236ee4](https://support.office.com/en-us/article/join-a-teams-meeting-078e9868-f1aa-4414-8bb9-ee88e9236ee4)
  - B. Tips on How to Customize Your View in Teams at [youtube.com/watch?v=stLLb7EjLs4](https://youtube.com/watch?v=stLLb7EjLs4)