

ALTERNATIVE DISPUTE RESOLUTION GUIDANCE RELATED TO COVID-19

➤ BACKGROUND

As part of the educational response to the COVID-19 outbreak in the United States, the Oklahoma State Department of Education Office of Special Education Services (OSDE-SES) is modifying, updating and re-circulating certain procedures related to Alternative Dispute Resolution under the Individuals With Disabilities Education Act (IDEA). In the event of prolonged temporary transition of the Oklahoma State Department of Education's and the Special Education Resolution Center's (SERC) move to remote telework, the guidance will permit the continuation of services and operations of activities to continue for party participation.

➤ SCOPE

The purpose and scope of this document details guidance specifically relating to the continuation of following procedural safeguards in the form of dispute resolution proceedings: Formal State Complaints, IEP Facilitation, Mediation and Due Process Proceedings.

➤ EFFECTIVE DATE

This guidance will take effect (retroactively) on March 17, 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 C.F.R. §300.500 et seq.), and relevant and applicable portions of the OSDE-SES Special Education Policies, Special Education Handbook and Special Education Process Guide remain in full force and effect.

➤ POLICY GUIDANCE

I. Formal State Complaints

a. Document Submission

At this time, due to COVID-19, OSDE staff are required to work from home and cannot receive mail at the OSDE office building. **Any complaints mailed or faxed to the OSDE office building will be filed and processed when OSDE staff are allowed to return to the office building. OSDE allows complainants to send complaints via email to colin.raley@sde.ok.gov. Emailed complaints are filed when OSDE staff open the email.**

b. Time Frame

Any individual or organization may file a formal complaint if they believe that the school district is not complying with Federal or State laws or regulations relating to special education. If the formal complaint is mailed or personally delivered to the OSDE-SES, the complaint will be filed and processed once OSDE staff resume working in the office building after COVID 19 restrictions are lifted. The OSDE-SES must resolve a formal complaint within 60 calendar days from the date the complaint is received in the office, unless exceptional circumstances exist.

II. IEP Facilitation

a. Initial Request for Service

Call SERC 1-888-267-0028 or 1-918-812-0944. If there is no answer, please leave a message and someone from the SERC office will return your call. SERC staff may be required to work from home until further notice.

b. Documents

Documents will be provided as an attachment by e-mail to the electronic address given by the requesting party. If the requesting party does not have access to email, then the paper document will be sent to the mailing address given to the SERC office. Signed documents will be returned electronically to jo.blades@okstate.edu & shannon.esmeyer@okstate.edu. Documents may be returned to the SERC office by U.S. Mail but will be considered received when the office staff open the mail.

c. Meetings

During this time, in person meetings are not possible. Meetings will be made available by remote teleconferencing with all the parties. People considering IEP facilitation services should consider, at the time of requesting services, their ability to access teleconferencing equipment and internet.

III. Mediation

a. Initial Request for Services

At this time, due to COVID-19, OSDE staff are required to work from home and cannot receive mail at the OSDE office building. **Any mediation requests mailed or faxed to the OSDE office building will be filed and processed when OSDE staff are allowed to return to the office building. OSDE allows parties to send mediation requests via email to colin.raley@sde.ok.gov. Emailed Mediation requests are filed with OSDE when staff open the email.**

b. Meetings

During this time, in person meetings are not possible. Meetings will be made available by remote teleconferencing with all the parties. People considering mediation should consider, at the time of requesting services, their ability to access teleconferencing equipment and internet.

IV. Due Process Hearings

a. Document Submission

At this time, due to COVID-19, OSDE staff are required to work from home and cannot receive mail at the OSDE office building. **Any hearing requests mailed or faxed to the OSDE office building will be filed and processed when OSDE staff are allowed to return to the office building. OSDE allows complainants to send hearing requests via email to colin.raley@sde.ok.gov. Emailed hearing requests are filed with OSDE when OSDE staff open the email. Hearing requests are considered officially filed when OSDE and the School District have both received a copy of the request.**

b. Resolution Session

During this time, in person meetings are not possible. Meetings will be made available by remote teleconferencing with all the parties. Request for a facilitator to attend the Resolution Session will be submitted electronically to shannon.esmeyer@okstate.edu and jo.blades@okstate.edu. When a parent files a due process complaint, the LEA must convene a resolution meeting within 15 days of receiving notice of the parent's complaint, unless the parties agree in writing to waive the meeting or to use mediation. 34 C.F.R. § 300.510(a). While the IDEA specifically mentions circumstances in which the 30-day resolution period can be adjusted in 34 C.F.R. § 300.510(c), it does not prevent the parties from mutually agreeing to extend the timeline because of unavoidable delays caused by the COVID-19 pandemic.

c. Prehearing Conferences

All conferences prior to the hearing will be held over the telephone and recorded by a court reporter. The School District will arrange the services of a court reporter and the conference call. The School District will inform the parties of any procedures for connecting to the call.

d. Hearing

During this time, in person meetings are not possible. Hearings will be made available by remote teleconferencing with all the parties. The Hearing Officer assigned to the case has full control over the process. The Hearing Officer will inform the parties about details regarding the submission of documents both in paper and electronically. The Hearing officer will inform the parties of any other procedural matter that deviates from the standard hearing process. Additionally, although a hearing decision must be issued and mailed to the parties 45 days after the expiration of the 30-day resolution period or an adjusted resolution period, a hearing officer may grant a specific extension of time at the request of either party to the hearing. 34 C.F.R. § 300.515(a) and (c).

