



**Maine Department of Education – Office of Special Services  
Due Process Hearing Guidance June 3, 2020  
COVID – 19: In-person and Remote Hearings**

The Center for Appropriate Dispute Resolution in Special Education (CADRE) May 2020 - Circumstances may prohibit participants from attending special education meetings in person. In these situations, technology allows one or all of the individuals to participate through the Internet or telephone. Many types of meetings can occur virtually, including IEP meetings, mediations, resolution sessions, and due process hearings.

<https://www.cadeworks.org/virtual-meetings-strategies-tips-and-resources>

In March the Department provided guidance that hearings should only be scheduled remotely if both parties agree. Experience with the COVID-19 situation has evolved including the use and security of remote access technologies that are available for hearings. Now that hearing officers know how to operate the technologies and how to protect the confidentiality of the hearing process, it is appropriate to have remote hearings in a timely manner.

At this time the Department continues to not support in-person hearings. While the Governor's emergency orders currently permit gatherings of 10 people, they do not address day long hearings. Neither the Individuals with Disabilities Education Act (IDEA) or the Maine Unified Special Education Regulations (MUSER) requires an in-person hearing. Since all of the procedural requirements for a hearing in MUSER can be addressed remotely, hearing officers are now authorized to decide as to whether a hearing will proceed remotely. Hearing officers know the individual circumstances of the parties in each case and if they believe that a remote hearing would not provide an opportunity for all parties to receive a fair hearing, they can continue the hearing to a later date.

Due process hearings should proceed remotely with hearing officers taking steps to assist the parties in the use of the remote platform. This could include a practice session in between the pre hearing and hearing to ensure that everyone is able to connect, present and review documents using the technology. The Department will continue to monitor the situation as part of the larger state response to COVID-19 and evaluate the return to in-person hearings when it is appropriate.