

# EASTERN DISTRICT OF NEW YORK

## ADR PROGRAM

### **Mediator's Guide to Conducting Remote EDNY Mediations**

(last updated 03/07/2024)

The following guide is for EDNY panel mediators who conduct their EDNY sessions remotely.

#### **I. Party Confirmation**

Parties must agree on the location (in-person or remote) for their session. Please ensure all parties have agreed to participate in a remote mediation before scheduling the session. If the session will be held remotely, parties should decide if the session will include video conferencing (or if it will be audio only). When possible, participation format (audio/video) should be consistent for all parties. In audio only sessions, mediators should ask each participant to identify themselves at the beginning of the call (verifying attendance).

Before the session, explain to the parties that no unannounced persons are allowed to participate (this includes individuals in the same room as a party). Recommend that parties attend the session from a private room or use headphones. Remind parties that recording is not permitted during the mediation session, and that each participant should join via secure Wi-Fi network (not public Wi-Fi). Only those who sign the confidentiality stipulation are permitted to attend the session.

#### **II. Technical Requirement's**

Please ensure that you have a device that allows you to conduct the mediation session remotely. This device must have a camera, microphone, and the ability to use all the features of the remote platform (including breakout rooms). Please note, using a cell phone may limit the ability to use certain features and should be avoided.

Please use a secure internet connection (not public Wi-Fi). You may choose whatever platform is secure (e.g. Zoom, MS Teams, Webex) and should use your own account. Do not allow the parties to host the session or use their account to host the session.

When setting up the meeting, ensure that you have:

- enabled meeting password;
- enabled the waiting room feature;
- enabled the “mute upon entry” feature for participants;
- enable the breakout room feature;
- disabled the record feature;
- disabled the chat feature; and
- limited the screen sharing/white board sharing feature (only the host should have these capabilities).

These features can be found on Zoom under the “Security” button and on MS Teams using the “Settings/Meeting Options” feature.

### **III. Party Communication**

Please send the parties all the information required to join the remote mediation session. This includes the name of the platform, the link, the meeting ID, and password. Ensure that all parties (counsel and clients) can access/are familiar with the platform you are using. If the party is unfamiliar with the platform, encourage them to download and familiarize themselves with the platform before the initial session to avoid a delayed start.

Include the Remote Confidentiality Stipulation in your communication to the parties. All participants, including the mediator, must sign the Remote Confidentiality Stipulation and return copies to [nyed\\_adr@nyed.uscourts.gov](mailto:nyed_adr@nyed.uscourts.gov).

Request that parties email their mediation statements to you prior to the initial mediation session.

You may choose to include a cell phone number or other means to contact you during the mediation session in this communication. Parties may use this to communicate with you if they are unable to join, are dropped from the meeting, are in a breakout room without you and need to contact you.

### **IV. Conducting the Remote Mediation Session**

Once all parties have joined the waiting room, admit them and “lock” the meeting (on Zoom click the “Security” button on the bottom toolbar. In MS Teams Click on “People” and then click the “...” option in the upper right corner). This will prevent others from joining the session. Remind parties that recordings of the session are prohibited. Require encryption for third party endpoints.

Parties may share documents with you that they want shown/screen-shared during the session via email prior to the session. When sharing these documents within the session, remind the parties that the information is for the purpose of mediation only and may not be copied or shared outside the session. Parties may agree to share documents with each other in another manner.

## **V. Concluding the Remote Mediation Session**

At the end of the session, bring all parties back into main session (if possible) to review next steps. Alternatively, you can explain next steps in each breakout room. If the mediation will continue, please set the next mediation date and email the ADR Office so that we can mark the matter as “ongoing.” If the mediation has concluded with an agreement, remind the parties that the agreement should be reduced to writing. If the agreement resolves the entire dispute, the parties should file a [Stipulation of Discontinuance](#). Regardless of whether an agreement was reached, the parties should report the outcome of mediation by completing the [Mediation Report Form](#). To assist with the continued development of the EDNY ADR Program, we also ask that you complete the [Self-Assessment Form](#) when the mediation is complete.

## **VI. Resources**

If you require technical assistance, please contact the ADR Office. All of the Forms referenced above and additional information about the mediation program for mediators/parties can be found on the [ADR Forms](#) website, at <https://www.nyed.uscourts.gov/adr-forms>.

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