



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10007

EXECUTIVE ORDER NO. 20

June 24, 2022

**JURISDICTION OF THE OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS OVER SPECIFIED ADJUDICATIONS RELATED TO SPECIAL EDUCATION AND SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED**

WHEREAS, the Charter revisions approved by the voters and set forth in sections 1048 and 1049 of the Charter authorize the Mayor, by executive order, to consolidate administrative tribunals and caseloads by transferring tribunals or parts thereof, or categories of adjudications, to the Office of Administrative Trials and Hearings (OATH); and

WHEREAS, the prior consolidation and transfer of administrative tribunals into OATH has allowed the City of New York to continue in the impartial administration of justice and the conduct of independent, professional, efficient, and technologically advanced adjudicatory hearings; and

WHEREAS, under 20 U.S.C. § 1415(b)(6) and (k)(3) and N.Y. Education Law § 4404(1), an impartial due process complaint may be filed by a parent or guardian of a student with a disability or by the public agency responsible for offering to provide education to such a student on any matter relating to identification, evaluation, or educational placement of such a student, or the provision of a free appropriate public education to such a student; and

WHEREAS, pursuant to Executive Order No. 91, dated December 27, 2021, jurisdiction over such due process complaints has been conferred upon OATH; and

WHEREAS, under Section 504 of the Rehabilitation Act of 1973, as amended, codified at 29 U.S.C. § 794, and its implementing regulations, 34 C.F.R. Part. 104, an impartial due process complaint may be filed by a parent or guardian of a qualified student with a disability on any matter relating to the identification, evaluation, or educational placement of such student; and

WHEREAS, such claims have been adjudicated by independent Impartial Hearing Officers selected pursuant to regulations of the Commissioner of the State Education Department (SED); and

WHEREAS, the New York City Department of Education (DOE) operates the New York City Impartial Hearing Office, which performs various functions to administer the system for conducting the special education impartial hearing process in the City School District of the City of New York, including recording, tracking, and processing case assignments within the Impartial Hearing System and collecting data required by the SED; and

WHEREAS, OATH has the capacity and ability to adjudicate a wide variety of administrative matters, including matters currently or previously adjudicated by independent Impartial Hearing Officers pursuant to 20 U.S.C. § 1415, Education Law § 4404, Section 504 of the Rehabilitation Act of 1973, as amended, codified at 29 U.S.C. § 794, and its implementing regulations, 34 C.F.R. Part 104, and the Regulations of the Commissioner of SED; and

WHEREAS, OATH, DOE, and SED have entered a Memorandum of Agreement, dated December 1, 2021 (the MOA), in which they agreed that the transfer of the handling of the impartial hearing system to OATH is appropriate and will facilitate the effective management of current and future filings, and the MOA was ratified by DOE's Chancellor;

NOW, THEREFORE, by virtue of the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Executive Order No. 91, dated December 27, 2021, is hereby revoked and replaced by this Order.

§ 2. Transfer of Categories of Adjudications Related to Impartial Hearings under the Education Law and Rehabilitation Act of 1973, as amended.

a. OATH shall, to the extent consistent with applicable law and regulations, and consistent with and subject to the terms of the MOA, as applicable, and subject to the consent of the Chancellor of DOE, have jurisdiction over categories of adjudications arising under the federal Individuals with Disabilities Education Act, Education Law § 4404, the Regulations of the Commissioner of the New York State Department of Education, parts 200 and 201 (8 NYCRR Parts 200 and 201), and Section 504 of the federal Rehabilitation Act of 1973, as amended, codified at 29 U.S.C. § 794, and its implementing regulations, 34 C.F.R. Part 104, which, as of December 31, 2021, were conducted by adjudicators pursuant to a program administered by the New York City Impartial Hearing Office. These adjudications will be conducted in accordance with applicable law and regulations by both OATH and adjudicators pursuant to a program administered by the New York City Impartial Hearing Office until such time as a full transfer is effectuated.

b. OATH shall coordinate with DOE and SED, as appropriate, regarding agency rulemaking relevant to such transfer and the terms of the MOA, as applicable.

§ 3. Agency Cooperation. Affected agencies shall take all steps necessary, consistent with applicable law, to implement Section 2 of this Order.

§ 4. Ratification. All actions taken heretofore by OATH, DOE, or any other public agency in furtherance of the exercise of jurisdiction over the categories of adjudications described in subdivision a of Section 2 of this Order, including pursuant to Executive Order No. 91, dated December 27, 2021, are hereby ratified and confirmed.

§ 5. Effective Date. This Order shall take effect immediately.



Eric Adams  
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Mayor